SPECIAL ISSUE

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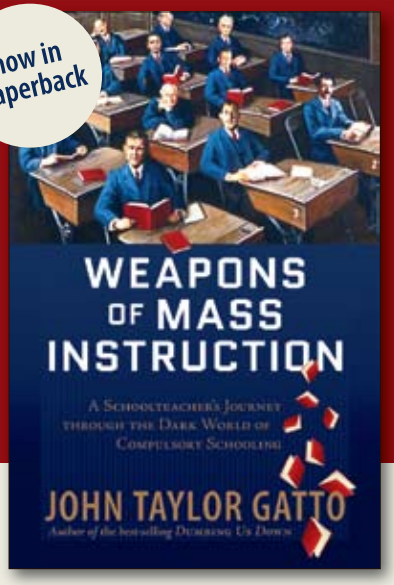

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Letters

Love the Smell of Apartheid in the Morning!

Germantown, Md.
Oh, how I miss those sweet, lovable days of apartheid rule during the terrifying reign of the Afrikaners! Oh, how I miss the days when I was forced to carry an ID book that I had to produce on demand by a white, less-educated policeman! Oh, how I miss Verwoed, Foster, Koornhoff, Botha and the jackbooted Brooderbonders! Oh, I miss them so!

But never fear, we now have our own version of apartheid, in Arizona, in the land of the free ["Arizona Burning," May 17]. The *volk* of apartheid South Africa are proud of you, Arizona. You keep the torch burning for all God-fearing whites. You know, the Afrikaners also believed in the superiority of white, a God-given right.
Varsi Padayachee

Phoenix
We Arizonans are frustrated that so many political figures and pundits are reacting to incomplete or misinformation. Read the bill (racial profiling is expressly forbidden). Approved or new citizens should be carrying documentation, just as any driver should carry a license. And attend to the burdens on our medical, educational, welfare and criminal justice systems from dealing with illegal immigrants here.

I agree that our law has motivated the federal government to address immigration and border issues. And yes, we need a policy that simplifies and hastens the process for obtaining work visas, then citizenship.
Mitch Boykan

Temple, Tex.
This new law is appalling. I am seeing a terrible trend in this country. Groups are being selected—first it was Muslims and now (again) Hispanics—as being "other," not American, not fully human.

I know there has always been racism in America. On that I have no illusions. I had hoped that with Obama's election, America could be turning an important corner. But alas, the opposite seems to be happening. Racism has been given credence by the law passed in Arizona. Already other states, including my own, are voicing interest in enacting similar legislation. What's next—people forced to wear a symbol on their clothing to indicate their ethnicity?

I strongly urge all Americans to take a stand against this law. Boycott Arizona and its businesses until this law is repealed.
Barbara Lockwood

Bethpage, N.Y.
If you want to get this awful SB 1070 repealed, boycott Arizona businesses until the legislature and the governor repeal the law. Send the Arizona Chamber of Commerce a letter at democratz.org. Don't get mad, get active!
Den Baer

IBGYBG—FYI

Douglasville, Ga.
Re Christopher Hayes's "Goners" [May 17]: IBGYBG has been around for some time. Business leaders make promises too good to be true, seal the deal and waltz out of the company with their cash, stock options and bonuses before the roughage hits the fan. It's business as usual.
Kyle French

Shenandoah, Tex.
Regarding IBGYBG: this is similar to a remark made by George W. Bush in the late 1990s as governor of Texas. Told by wiser souls that his tax cuts would be devastating to Texans, he responded, "I'll be gone by then." Not soon enough or far enough. Sign me One Sad Texas Democrat.
Barbara Phillips

OMG—NDOP!

Flushing, N.Y.
Just as Judge Barbara Crabb deserves three cheers for her ruling against a National Day of Prayer, so does Katha Pollitt for her May 17 "Let Us (Not) Pray." She shows how this is purely a Christian ceremony

(continued on page 34)

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The Junkies of Wall Street

Think of Wall Street as a chronic and indiscriminate addict, swallowing home mortgages as if they were OxyContin, experimenting with synthetic financial instruments and, above all, hopelessly in the thrall of risk, gambling away not only its own coin but any assets it can get its trembling hands on. There are two things we can to do to help this fiend—harm reduction and rehab.

EDITORIAL

The financial reform bills that passed the Senate in May and the House in December do little to bring about the latter—true reform and reconstruction of the financial sector so it becomes a clean player and a good citizen. That would require downsizing the obscenely large role finance capitalism plays in our economy (40 percent of corporate profits), breaking up the six too-big-to-fail banks that collectively control assets equivalent to 63 percent of GDP and reconstructing the wall between commercial and investment banking brought down by the repeal of Glass-Steagall. This tough but necessary regimen has been recommended by leading economists and proposed in part by Senators Cantwell and McCain. But few in Washington, least of all the Obama administration, had the guts to champion it—so big, bold legislation aimed at rehabbing the banks never even came up for a vote.

What we have instead is the harm reduction method; the financial reform bills merely attempt to get Wall Street into a safer space where it can wreak less havoc on itself and others while continuing to be a user and an abuser. Some safeguards, however, are better than others, and as the Senate and House bills get reconciled in conference committee, there's still a lot up in the air. One crucial element is the regulation of derivatives, the complex financial instruments on which banks wildly speculate and which blew up the mortgage crisis so badly it became a global Great Recession. Both bills would require derivative trades to go through a central clearinghouse and a regulated exchange, making public the risks involved. But the House bill has far too many loopholes. The Senate bill is tighter, although it lacks an enforcement mechanism; and it would require banks to spin off their derivative operations into separate companies—a provision inserted by Senator Blanche Lincoln, who took an uncharacteristically populist stance in the face of a challenge from a primary opponent.

Another important unresolved issue is the status of a consumer financial protection agency. Here the House version is substantially better, creating an independent agency with broader regulatory powers. Then there's the Merkley-Levin amendment, which would install the Volcker rule, limiting the ability of banks to engage in certain kinds of speculative trading. This widely popular measure was also never voted on, because of Republican obstructionism; but through procedural hocus-pocus, it could find its way into the final bill, where, we hope, it will meet the best elements of the Senate and House legislation.

Throughout this long process, public pressure and anger at Wall Street—spurred on by SEC investigations, street protests, direct action and electoral challenges—have pushed Congress to take a get-tough approach. That's why it is vital that the conference committee meet in the open, as Congressman Barney Frank rightly proposes, instead of behind closed doors, where the financial lobby—which, according to the Center for Responsive Politics, has spent $122 million over the past year fighting every decent proposal—can do its dirty deeds in secret.

The intervention must be televised.

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The Oil Catastrophe

It's hard to grasp the magnitude of the ecological catastrophe unfolding in the Gulf of Mexico as a result of the Deepwater Horizon/BP oil spill. At this point no one is certain how much oil is pouring from the well into the surrounding ocean. BP, adopting an early government estimate, has claimed that it amounts to a mere 5,000 barrels a day, but some scientists say the amount is closer to 60,000 or 70,000 barrels. Taking the lesser of these estimates, that would translate into the equivalent of an *Exxon Valdez* spill every four days. Given that this has been going on for five weeks at the time of this writing, the gulf has by now absorbed nine such spill equivalents, with more to come. But picturing the 1989 *Exxon Valdez* spill—until now the largest in US waters—and multiplying by nine does not begin to convey the scale of the disaster. For the first time in history, oil is pouring into the deep currents of a semi-enclosed sea, poisoning the water and depriving it of oxygen so that entire classes of marine species are at risk of annihilation. It is as if an underwater neutron bomb has struck the Gulf of Mexico, causing little apparent damage on the surface but destroying the living creatures below.

COMMENT

Who bears responsibility for this unmitigated catastrophe? What should be done in response?

Beginning with the first question, it is evident that a host of actors bear responsibility, from the drilling managers aboard the Deepwater Horizon rig to the BP officials who oversaw their work to the government regulators who awarded the corporations blanket waivers to ignore required environmental assessments. But, as in all matters that derive from broad strokes of policy, this disaster bears the imprint of the ultimate deciders: presidents George W. Bush and Barack Obama.

What can be determined from the information available is that the April 20 explosion occurred because BP managers were in a hurry to seal off the well so they could move the rig (which BP leased from Transocean for $500,000 per day) to another drilling location. To speed up the move, BP's managers evidently approved the risky exit procedure that led to the lethal explosion. At one level, then, responsibility can be laid at the feet of the managers involved in that decision as well as of Cameron International, the manufacturer of the rig's blowout preventer, which appears to have been defective. These managers operated in a corporate culture that favored productivity and profit over safety and environmental protection.

BP, which has boasted of its success in boosting oil production in the gulf, has a sordid history when it comes to safety. Last October it was fined $87 million by the Occupational Safety and Health Administration for failing to correct safety problems discovered after a 2005 explosion that killed fifteen workers at BP's Texas City refinery—the largest such fine ever levied by OSHA. Like other firms operating in the gulf, BP has also sought a blanket exemption from requirements that it conduct an environmental impact assessment for each new offshore well it drills.

But corporate officials and their parent companies did not operate in a political vacuum. BP and its subcontractors were

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Noted.

PR STUDENTS STRIKE: Singing and chanting "Education is a right, not a privilege" to a rousing *plena* beat, hundreds of striking **University of Puerto Rico** (UPR) students swarmed San Juan's Plaza Las Américas, a huge shopping mall emblematic of the island's proto-NAFTA economy, on May 22. The strike began on April 21, shortly after the UPR administration announced tuition hikes, the end of tuition benefits to university workers and the elimination of some merit-based financial aid—all in an attempt to cut $100 million from the budget.

The mall protest capped a tumultuous week during which police beat, Tasered and arrested students at another off-campus protest; negotiations floundered; and the student negotiating committee was sued for blocking access to the university grounds. The campus strikers, who have been under a carnivalesque state of siege, ran their own pirate radio station—**Radio Huelga**, which sandwiches antigovernment rants in between **Bob Dylan** and salsa music—and engaged in street theater even as police accosted parents trying to pass food through the gates.

The strike has become emblematic of Puerto Rico's deep economic and political crisis. Governor **Luis Fortuño**'s slashing of the public sector is an attempt to stem increasing deficits and increase the island's chances of becoming the fifty-first state. But Fortuño's massive government job cuts and the UPR strike have created a labor-student coalition with broad-based popular support that has staged two national strikes in six months. By invoking Republican strategies, Fortuño has raised a new kind of class awareness. Refusing to back down on May 23, students and labor leaders vowed to bring the fight "to the spaces where the rich and powerful do not expect us to go." ED MORALES

RIGHT TO RENT: The Obama administration's attempt to bribe, cajole or beg the banks to modify mortgages isn't working. There were 367,056 foreclosure filings in March, a monthly record. In the first three months of the year, the safest borrowers accounted for nearly 37 percent of new foreclosures. That's why the **Right to Rent Act**, introduced by Democratic Representatives **Raúl Grijalva** and **Marcy Kaptur**, is so timely. It would allow a family that receives a foreclosure notice to remain in their home as renters under a five-year lease, paying a fair-market monthly rent. The proposal was first suggested by progressive economist **Dean Baker** and has been endorsed by experts across the political spectrum.

"We have asked time and again for banks to work with the American people to do loan workouts," Kaptur says. "With nearly 6 million people delinquent on their mortgages and at risk of foreclosure, we can no longer afford for banks to continue turning their backs on the American people."

"The administration's approach is simply an insufficient response to this historic crisis," says Grijalva. "Right to Rent is a fair and sensible solution. Banks will get reliable rental income, and families will be able to stay in their homes and significantly lower their monthly housing costs." GREG KAUFMANN

PEACE DIVIDEND: As Congress votes on the Obama administration's request for another $33.5 billion in emergency supplemental spending to escalate the war in Afghanistan—where the thousandth US soldier was recently killed and thousands of Afghan civilians have been slain—foes of the occupation moved on a number of fronts to challenge the White House's plan. **Congressional Progressive Caucus** co-chair **Raúl Grijalva** worked with **Progressive Democrats of America** to spread the word that "opposition to the supplemental has to intensify"—even in the face of moves by Democratic leaders to sweeten the supplemental by attaching new education funding. Senator **Russ Feingold** offered an amendment requiring the president to develop a flexible timetable to draw down US troops from Afghanistan.

But the most creative move, as usual, was a proposal from Congressman **Alan Grayson**. The rabble-rouser introduced **The War Is Making You Poor Act**, which he crafted "to show people in a real and concrete way the cost of these endless wars." Explains Grayson, "Next year's budget allocates $159,000,000,000 to perpetuate the occupations of Afghanistan and Iraq. That's enough money to eliminate federal income taxes for the first $35,000 of every American's income. Beyond that, [it] leaves over $15 billion to cut the deficit. And that's what this bill does. It eliminates separate funding for the occupation of Iraq and Afghanistan, and eliminates federal income taxes for everyone's first $35,000 of income ($70,000 for couples). Plus it pays down the national debt." That sounded like a smart notion to more than 25,000 Americans, who added their names to Grayson's online antiwar petition at TheWarIsMakingYouPoor.com. JOHN NICHOLS

SUING KBR: For a company described by the *Oregonian* as "synonymous with poor performance: serving spoiled food, using contaminated water and burning trash in pits," **KBR** is remarkably adept at avoiding legal culpability. **David Sugerman**, a Portland trial lawyer, has learned that suing the largest American military contractor in Iraq is necessarily an exercise in frustration—and a labor of love. Sugerman co-represents twenty-one **Oregon Army National Guard** veterans who contend that in 2003 they were knowingly exposed to hexavalent chromium, the same carcinogen made infamous in the **Erin Brockovich** story, while guarding KBR contractors at the Qarmat Ali water treatment plant in Basra. For his services so far, Sugerman—who, along with Houston lawyer **Michael Patrick Doyle**, took the case on contingency—has been paid all the veterans can afford: one Iraqi dinar.

The Oregon case is but one of hundreds of Iraq-related personal-injury lawsuits that have been filed against KBR, and with the military's "help"—it took the Army thirteen months to acquiesce to Sugerman's FOIA requests, and then only after Oregon Senator **Jeff Merkley** interceded—the company's legal team has been emptying its quiver in efforts to make the case go away. So far, Sugerman and Doyle have had to contend with two motions to dismiss the case and two more to prevent discovery. The veterans scored a small victory on May 20 when a federal magistrate refused to toss the case out. KBR has filed a second motion to dismiss, and Judge **Paul Papak** will hear those arguments in July; with any luck, Sugerman and Doyle will be able to stretch that dinar for another couple of months. SIMON MAXWELL APTER

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able to drill in this location, some forty miles off the Louisiana shore, because the government, first under Bush and then under Obama, has been keen to increase production in the deep waters of the Gulf of Mexico. Ever since it became clear, in the 1990s, that oil output at Prudhoe Bay in northern Alaska was in irreversible decline and that no other onshore location in the continental United States could provide increased levels of petroleum, the government has sought to boost output from the deepwater gulf to moderate the nation's growing dependence on imported energy. To that end, the Bush administration proposed to open up new areas for drilling, including the Arctic National Wildlife Refuge (ANWR) and the Outer Continental Shelf, and to facilitate the efforts of giant energy firms to exploit these resources.

Bush was never able to persuade Congress to approve drilling in ANWR. But he did succeed in expanding drilling in other areas, including the deepwater gulf. Bush's principal instrument in these endeavors was the Minerals Management Service (MMS), the branch of the Interior Department responsible for providing leases for offshore drilling as well as collecting the fees and royalties the companies paid for operating in federal waters.

Intended largely to promote offshore drilling, the MMS was also responsible for ensuring that all such operations complied with the National Environmental Policy Act, the Endangered Species Act and other environmental laws. Full adherence to these laws could have slowed the expansion of drilling or blocked it altogether—but the MMS provided the leases without making the companies, including BP, obtain required environmental permits. MMS officials routinely ignored warnings from the agency's own scientists and from those at the National Oceanic and Atmospheric Administration that this sort of deepwater drilling posed a risk of massive oil spills with devastating consequences for protected marine species. Such preferential treatment for industry is hardly surprising, given the cozy—in some cases criminal—relationships that developed between senior MMS officials and their corporate counterparts.

Enter the Obama administration. Obama has been deeply critical of his predecessor's environmental policies and has promised to place fresh emphasis on developing alternative fuels—but he has shown little inclination to reverse the nation's growing reliance on offshore oil. As it did under Bush, the MMS has continued to award leases for offshore drilling in the gulf without requiring environmental scrutiny. In October the agency gave Shell Oil preliminary approval to drill in the Beaufort Sea, off Alaska's northern coast, despite warnings from scientists within and outside the agency that any spill in these far northern waters would have catastrophic environmental repercussions. Then on March 30—three weeks before the Deepwater Horizon disaster—Obama announced he would permit offshore drilling in additional areas of the gulf as well as in the Beaufort and Chukchi seas above Alaska and off the East Coast. Although Obama supposedly took this step in part to win support from Senate Republicans for the proposed climate-protection bill, it also reflects his belief, inherited from Bush, that the United States must produce more domestic oil to reduce its reliance on imports.

Since the gulf explosion, the administration has taken several halfhearted steps to slow the drive for increased deepwater drilling. It placed a moratorium on awarding new offshore leases, although the MMS reportedly has continued to give these away. It has also announced plans to break up the MMS into several independent agencies—with separate bodies responsible for awarding leases, collecting revenues and providing environmental oversight—in order to prevent a future conflict of interest. All these bodies, however, will remain within the Interior Department, and it is unclear if the White House really has the will to curb risky offshore drilling.

What can we learn from all this? It should be obvious that merely tightening safety and environmental procedures on offshore rigs will not be enough to prevent further environmental ruin. As long as the major energy firms continue to rest future profits on wells in ever-deeper waters—and government regulators collude with them in this—more catastrophes are inevitable. Clearly, it's policy that has to change, not its implementation.

To prevent more ecological disasters, President Obama has to acknowledge the fallacy of his offshore-drilling plan and place a moratorium on all drilling in the Arctic, the Atlantic and new areas of the Gulf of Mexico while the government and industry determine whether it will ever be safe to operate in these waters. As BP's inept response to the crisis shows, the giant firms lack the capacity to control leaks in deep offshore waters, and so any approval of new wells in the gulf must be contingent on developing safety and cleanup technologies equal to the task. In the meantime, every effort must be made to speed the introduction of alternative fuels that pose fewer threats to the natural environment.

MICHAEL T. KLARE

Michael T. Klare, Nation *defense correspondent, is professor of peace and world security studies at Hampshire College. His latest book is* Rising Powers, Shrinking Planet: The New Geopolitics of Energy *(Holt).*

Calvin Trillin, Deadline Poet

The Response to the Primary Victory of Rand Paul

The Tea Party's told by the pundits,
If you want your movement to matter,
Don't place at the head of the table
A guy who might be the Mad Hatter.

Law-Free Zoning

When the Supreme Court ruled in June 2008 that detainees held at Guantánamo Bay have a constitutional right to challenge their detentions in federal court, it appeared to mark the end of an executive strategy to hold detainees beyond the law. Guantánamo, picked by US officials as a de-

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tention site in part because of its potential for being a law-free zone, was now subject to law.

Some celebrated this decision, *Boumediene v. Bush*, as a vindication of the rule of law, which it certainly was. But others, including Justice Antonin Scalia in his dissent, derided it as a Guantánamo-only decision and predicted that it would be easily evaded by housing detainees elsewhere.

COMMENT

According to a May 21 decision by a panel of the Court of Appeals for the District of Columbia Circuit, Scalia may have been right. In *Al Maqaleh v. Gates*, the appeals court ruled that foreigners held at Bagram Air Base in Afghanistan, unlike their counterparts held at Guantánamo, have no right to challenge their detention in federal court. The unanimous decision, written by one of the court's most conservative judges, David Sentelle, but joined by two of its more liberal judges, Harry Edwards and David Tatel, relied heavily on the detainees' being held in Afghanistan, an "active theater of war." But none of the detainees were captured in Afghanistan. The only reason they were held there was that the military took them to Afghanistan after capturing them elsewhere. Thus, the decision offers the military a simple strategy for avoiding legal review: send all detainees to Afghanistan, no matter where they are captured.

The court acknowledged that the Bagram detainees were situated similarly to those held at Guantánamo and had received even worse procedures than the kangaroo-court proceedings at Guantánamo. And it rejected the Obama administration's argument that habeas corpus extends no further than places, like Guantánamo itself, where the United States exercises "de facto sovereignty." But the court then concluded that "practical obstacles" precluded the extension of court review to detainees in a war zone.

The court worried that providing judicial review would "bring aid and comfort to the enemy," "diminish the prestige of our commanders," divert the attention of "field commanders" by requiring them to justify their actions in their own courts and create tension between the courts and the military. But the same concerns apply to review of detentions at Guantánamo, and the Supreme Court insisted that review must be available there. The appeals court offered no explanation for its different treatment of these identical concerns.

A war zone may, of course, require greater security measures, and the court pointedly noted that Bagram has been the subject of enemy attacks, including a suicide bombing in March 2009 and a Taliban rocket attack in June 2009. But the court cited no evidence that providing habeas review would undermine security. Habeas hearings regarding Guantánamo are held in Washington, with a video hookup for the detainees, who remain housed at Guantánamo; the same could be done for Bagram detainees without any increased security risks. While lawyers would have to be afforded limited access, the court cited no evidence that attorney access would pose a problem.

Moreover, the court gave short shrift to the fact that those seeking review were in a war zone only because the military put them there. All three detainees in *Al Maqaleh* alleged that they were captured outside Afghanistan. They could have been brought to Guantánamo, but the United States chose to take them to a war zone. To allow the government to rely on their presence in a theater of war to preclude all judicial review is to allow the government to manipulate the law and to create law-free detention zones—the very problem the *Boumediene* decision sought to avoid. It was precisely that concern that led the district court judge in the Bagram case, John Bates—a George W. Bush appointee—to rule that habeas corpus jurisdiction applies.

The court of appeals left open the possibility that if a detainee can show that the administration moved him to Bagram for the purpose of evading court review, a different result might obtain, and it emphasized that the government moved the three detainees to Bagram long before the Supreme Court's 2008 decision in *Boumediene*. It is surely no coincidence, however, that Guantánamo's population peaked in 2003, the same year the Supreme Court first agreed to decide whether habeas corpus extended there, and has fallen steadily since. From that time forward, the military has sought to reduce the number of prisoners in Guantánamo and has sent very few new detainees there. Still, proving that this was done to evade judicial review in an individual case could be virtually impossible.

As a result, the DC circuit's Bagram decision gives the administration precisely what the Supreme Court in *Boumediene* sought to deny it—a law-free zone. Justice Scalia may have lost the battle in *Boumediene*, but unless *Al Maqaleh* is overturned, he will have won the war.

DAVID COLE

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A Confederacy of Foxes

The mainstream media's fascination with Fox News is doubtless occasionally useful as a corrective to the cable network's pernicious right-wing influence, but in the end this constant, often feverish attention may act more as an echo chamber that gives the we-report-you-decide brigade considerably more clout than it might otherwise achieve.

COMMENT

Fox may have scored its one-hundredth consecutive month as the top cable news network recently, but that impressive-sounding run has given it a median viewership of only 2.13 million, in a nation of more than 250 million people over the age of 15. Even when you add in Fox's snarly lineup of Bill O'Reilly (3.34 million average viewers), Sean Hannity (2.51 million), Glenn Beck (2.32 million) and Greta Van Susteren (1.98)—plus Hannity's and Beck's cumulative weekly radio audiences of 14 million and 9 million, respectively—the population's direct exposure to the Fox den, given the inevitable overlaps, is at best 5 percent.

It's the rest of the media, salivating over the red meat Fox News throws into the Beltway arena, that magnify the network's hyper-conservative message, by making sure that tens of millions who might otherwise never encounter it do. The *New York Times* recently reported that Fox had become Jon

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Stewart's regular punching bag. So far this year, the paper noted, the *Daily Show* host had devoted two dozen segments to deflating the claims of Rupert Murdoch's retainers. This time, the peg was the repeated insinuations on the network's morning show, *Fox & Friends*, that the crescent-shaped logo used at April's nuclear security summit in Washington was an Islamic image. Outrageous? OK. Important? Not very. Yet the *Times* gave twenty-one paragraphs to shooting down the suggestion (*The Daily Show* checked with the White House, which said the logo was based on the Rutherford-Bohr model of the atom) and describing Stewart's ongoing anti-Fox crusade.

Newspapers, magazines, radio and the web track Fox as if it were the Sixth Estate. *Time* magazine feels constrained to list TV's top ten feuds, ranking Bill O'Reilly's scraps with Comedy Central's Stephen Colbert and MSNBC's Keith Olbermann at numbers three and four. O'Reilly mostly gives Olbermann the silent treatment, saving his denunciations for what he regards as MSNBC's left-wing bias; Olbermann delights in hammering O'Reilly by name, often labeling him "Worst Person in the World." So important are these schoolyard antics that the media, mainstream and otherwise, gave wide play last year to efforts by Murdoch, whose News Corporation owns Fox, and Jeffrey Immelt, head of General Electric, MSNBC's parent company, to curb their obstreperous fifth-graders. After a short stay in the principal's office, both shouters returned to the *status quo ante*.

Even when dog bites man, it's somehow news if a Fox star is involved. That Glenn Beck would be invited to offer his insights at the May commencement of Liberty University, the Jerry Falwell family's fundamentalist Christian academy in Virginia, is about as surprising as Amen at the end of a hymn. But the story appeared on the *Washington Post*'s "Breaking News Blog" and, as of this writing, produces more than 45,000 hits when you Google "Liberty University" with "Beck"—among them, for those who might be dozing in their pews, jesusneedsnewpr.net.

This reach no doubt pleases Roger Ailes, the former GOP operative who has guided Fox News since the mid-1990s and is himself a frequent matter of media inspection. When he took a pay cut this year of 21 percent, to $14.6 million annually, it was regarded as news by the *Times*, the *Guardian* and the *Sydney Morning Herald*. To Phil Griffin, Ailes's counterpart at MSNBC, he is clearly worth it. "He's changed media. Everybody does news differently because Roger's changed the world," Griffin told the *Chicago Tribune* in May, a bit of intramural gush that quickly bounced about the blogosphere.

Journalists have always framed their universe by battening off one another, because it's an easy, quick way to generate stories—and frequently sparks. Fox now casts the same kind of bait that Hearst and Pulitzer did in their circulation wars at the turn of the twentieth century, and even our more thoughtful publications find it hard to resist the yellow lures. On May 9 Frank Rich pounced on the network in his weekly *Times* column for routinely distorting the news to suit its political interest and "even politicizing the facts of nonpartisan existential threats" like the BP oil spill. Mark Lilla, a Columbia University professor of humanities, writing about the Tea Party in the May 27 issue of *The New York Review of Books*, warns that the demagogues at Fox News "scare the living daylights out of people by identifying a hidden enemy, then flatter them until they believe they have only one champion—the demagogue himself."

Rich is right, of course, and Lilla well may be, too, if a little hyperbolic. But by entering the ring with Fox News, they and the rest of the media daily help promulgate the network's willfully false portrait of the political landscape. The nation may be tilting right these days, but the vast majority of voters are not, as Fox would have it and the MSM echo chamber often suggests, a hot-eyed amalgam of Tea Partyers, death panel believers, birthers, socialist bashers, Obama haters and Palin lovers. Rand Paul, darling of the Tea Party movement and a Fox poster boy, may have won the Republican nomination for the US Senate in Kentucky, but his 207,000 votes represent less than 7 percent of the state's 2.8 million registered voters, and only 20 percent of registered Republicans.

The MSM should not ignore Fox News but instead take an e-page from snopes.com: chart the network's more egregious distortions and hysterics periodically, set the record straight succinctly and move on to more challenging and instructive sources of news.

RICHARD POLLAK

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The Senate passed a financial reform package that includes a handful of important reforms, writes Zach Carter in **Want Economic Justice? Then It's Time to Act.** But the real fight for a fair economy will require sweeping action by engaged citizens.

If Obama knew about General Petraeus's order to expand Special Ops in the Middle East and Asia last September, then he is a dangerous militarist. If he didn't know, he's a feckless incompetent. Take your pick, writes Robert Dreyfuss in **The Dreyfuss Report**.

Citizens United and *Bush v. Gore* don't stand alone. A decade's worth of Supreme Court decisions has tilted the electoral playing field toward the Republicans, writes Herman Schwartz in **Republican Justice(s)**.

Christine Smallwood talks to biographer and translator Susan Bernofsky about translating the work of Swiss novelist Robert Walser in **Back Talk**.

The Bronx bears the environmental burden of supporting a city of 8 million people, and is saddled with a 14 percent unemployment rate. That makes it the perfect laboratory for green jobs initiatives, writes Nicholas Kusnetz in **Greening the Bronx, One Job at a Time**.

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Alexander Cockburn

Israel: Into Deeper Darkness

Here's some really smart thinking on the part of the government of Israel. You've just had a slap across the face from Elvis Costello, who has decided to join musicians like Carlos Santana, Snoop Dogg and Gil Scott-Heron in declining to play in Israel. "There are occasions when merely having your name added to a concert schedule may be interpreted as a political act that resonates more than anything that might be sung," Costello wrote on his website, and "it may be assumed that one has no mind for the suffering of the innocent."

Now you have the most famous Jewish intellectual on the planet on your doorstep, trying to enter the West Bank across the Allenby Bridge from Jordan. Noam Chomsky, who is critical of the boycott, divestment and sanctions movement, is scheduled to give a series of lectures at Birzeit University near Ramallah in mid-May. He's the guest of Mustafa Barghouthi, a Palestinian leader who espouses nonviolence and human rights, and he's scheduled to meet with Salam Fayyad, the prime minister of the Palestinian Authority, with whom Benjamin Netanyahu wants to have direct peace negotiations.

So what do you do? If you're Israel's Interior Ministry, you tell your border official to stamp "Denied Entry" in Chomsky's US passport and to read out the view of the Interior Ministry, that "Israel does not like what you say"—thus ensuring a worldwide clamor while simultaneously driving a stake through the heart of the argument against the boycott that it inhibits free speech.

The interrogation at the border focused on two issues, Chomsky wrote to me later. "First and clearly most important, why am I going to Bir Zeit but not to an Israeli university (as I've done often before, with side trips to Bir Zeit, with no questions asked)? That amounts to their demanding that they have the right to determine who Bir Zeit is permitted to invite.

"The other issue, in the background, is that they don't like what I write. That needs no comment, except for one significant fact. The issue never arose when I was invited to speak at Israeli universities [in 1997 and 1998], though what I was writing then is no different from now.… This reflects the way Israel has changed, radically in the past few years, particularly since the Gaza attack. It's become far more paranoid, defensive, irrational, and ultranationalist. That's emphasized by the press coverage in Israel on this. Some of it makes the Dershowitz-Horowitz types look like reasonable human beings. All inconceivable a few years ago.… The series of contradictory excuses the Israeli government started concocting when they saw the international reaction are ridiculous, and when they sank to blaming the official at the border for a 'misunderstanding,' cowardly as well. They know perfectly well that he had nothing to do with it. He was in direct contact throughout the several hours of interrogation with the Ministry of Interior, and was simply relaying their statements, queries, and finally decision."

An important aspect of this episode was muddied over by some inaccurate reports right after the event. AP, for example: "An Israeli official says academic and polemicist Noam Chomsky, who is a fierce critic of Israel, has been denied entry to the country." ABC News ran the headline "Noam Chomsky Denied Entry to Israel." In *Ha'aretz*: "Noam Chomsky Denied Entry Into Israel." Entirely untrue. Chomsky was denied entry to Ramallah, not Israel. This distinction highlights, among other things, that Israel controls the borders into occupied Palestinian areas.

As the veteran Israeli journalist Uri Avnery says, "What Chutzpa is it to prevent Palestinian students from hearing a lecturer of their choosing? And what does it tell us about Netanyahu's perorations about 'Two States for Two Peoples'? What kind of a Palestinian state is this supposed to be, if Israel can decide who is allowed to enter, and who not?"

Border control is a constant fact for foreign human rights activists, peace activists and political leaders. And it is a daily, humiliating reality for Palestinians and their relatives. Gaza is a vast prison camp, with rigorous border control by land and sea, with Palestinians and vital supplies interdicted. "I've had relatives who are U.S. citizens marry Palestinians in the West Bank—they had to leave every three months because that was the duration of the visa Israel gives them." So writes Sam Husseini of the San Francisco–based Institute for Public Accuracy. "I've seen Israeli forces take little girls into a room to be strip searched at the border from Jordan into the occupied West Bank. Israel in many respects is trying to make life for Palestinians in the West Bank and Gaza difficult so they will simply leave."

In February the Tel Aviv–based Reut Institute presented a big report to the Israeli cabinet, long in the making, called "The Delegitimization Challenge: Creating a Political Firewall." It has sinister recommendations for a strategy of "offense." Israel's government is embarking on a methodical assault on human rights groups and kindred NGOs seen as delegitimizers. It's not paranoid to expect COINTELPRO-type black-bag jobs sponsored by Israel on solidarity groups here and around the world.

Israel is plunging into deeper darkness. As Gideon Levy recently told one interviewer: "In the last year there have been real cracks in the democratic system of Israel.… It's systematic—it's not here and there. Things are becoming much harder." And Levy also wrote in *Ha'aretz*, "When Israel closes its gates to anyone who doesn't fall in line with our official positions, we are quickly becoming similar to North Korea. When right-wing parties increase their number of anti-democratic bills, and from all sides there are calls to make certain groups illegal, we must worry, of course. But when all this is engulfed in silence, and when even academia is increasingly falling in line with dangerous and dark views…the situation is apparently far beyond desperate." ■

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Katha Pollitt

Veil of Fears

By the time you read this, plucky little Belgium may have beaten France to become the first European country to ban women from wearing the burqa or niqab in public. On April 29 the lower house of Parliament voted unanimously (with two abstentions) in favor of the ban, and the Senate is expected to approve it. The energy mustered in Brussels is all the more remarkable, given that in a Muslim population of around half a million, the number of women who cover their face is, according to the BBC, about thirty. In France, where President Sarkozy is enthusiastically pushing a ban, the number of women wearing the niqab is at most 2,000 in a Muslim population of more than 6 million; no one wears the burqa, the full-body baglike covering worn in Afghanistan. Similarly tiny numbers of face-veilers are found in the other European countries where bans have been discussed—the Netherlands, Denmark and Italy, where the conservative anti-immigrant Northern League has enacted bans in some towns it controls.

Of course, something that few people do can still be of great importance—especially if the trend is upward, as may be the case (in France the niqab was virtually unknown ten years ago; most wearers are under 40). Still, when I suggested in an e-mail exchange with pro-secular French feminist Liliane Kandel that perhaps the issue was a "distraction" from more serious issues facing Muslim women, she fired back that 2,000 was an "enormous" number and compared my point to French far-right politician Le Pen's famous claim that the Holocaust was a "detail" of World War II. She's hardly alone when it comes to extreme comparisons. In his *Slate* column, Christopher Hitchens compares face veils to bank robbers' masks and KKK regalia. That seems like an awfully dramatic way to characterize a woman's attire for grocery shopping or picking her kids up from school.

I don't like face-veiling either. It negates the individual; it reduces women to sex objects who must be shrouded to avoid tempting men; it sends the message that men's "honor" resides in the bodies of "their" women. In a conflict between women and fundamentalists, including the fundamentalists in their own families, I would want the state to side with women, on dress as in other issues of personal freedom. Yet while the French *Parliamentary Report on the Wearing of the Full Veil* nodded frequently to "French values" and gender equality, it isn't obvious how criminalizing Muslim women's clothing makes them more equal—unless you believe that they are being forced to cover by male relatives or increasingly fundamentalist communities. It was a clever stroke for Sarkozy to propose heavy fines and up to one year in prison for men who force girls and women to cover (women are also fined, but less). Some women may indeed be coerced—that's one reason there are Muslim women who support the ban. But others choose the niqab freely, as an expression of piety; indeed, 25 percent of niqab wearers are converts. Critics argue, accurately, that the Koran doesn't mandate face-veiling, but religion is what people make of it: the Bible doesn't command Amish women to dress like eighteenth-century German farm wives or Orthodox Jewish women to wear wigs. Why not just leave veiled Muslim women alone, except where there's a legitimate state interest in verifying their identity? They've got enough problems as it is. Indeed, the ban may make their situation worse if the men who force them into the niqab decide that without it, they can't leave the house at all.

How does it help veiled women to expel them from high school (as happened recently in Madrid), deny them employment, refuse them entrance to public buildings, make them pay fines or even serve jail sentences and tacitly encourage total strangers to insult and humiliate them? In France, a woman lawyer actually got into a fistfight with a niqab-wearing woman she spotted in a department store. In Italy a woman was fined 500 euros for wearing a niqab at the post office in Novara.

Supporters of the ban in France point to security concerns and republican ideals, but it is hard to see the energy behind the ban as disconnected from anti-Muslim feeling. The parliamentary report calls the face the "mirror of the soul," and many commentators have mentioned the importance of being able to see the face of the person you are talking with; but the same people who want to ban the niqab also wanted to ban the head scarf a few years ago: is the hair also the mirror of the soul? Germany cites secularism to justify its prohibition in some states on teachers and civil servants wearing the head scarf—even one styled like Grace Kelly's, as one teacher proposed—at the same time that classrooms in several states sport crucifixes despite a high court ruling against them.

Western Europeans see themselves as progressive, open and tolerant, even as they fuss and fret over the size of mosques and, in Switzerland, vote to ban minarets. They fear Islamic fundamentalism, but they don't see how nativism and prejudice drive Muslim communities inward. You would never know from all the flowery French talk about equality and women's rights that there is such a thing as discrimination against Muslims, including the Muslim women everyone's so concerned about. A recent study by scholars from Stanford and the Sorbonne is the first to show religious rather than ethnic (i.e., anti-Arab) discrimination. The researchers applied for jobs requiring education and experience using identical fictional résumés for "Aurélie Ménard" (ethnic French), "Marie Diouf" (Senegalese Christian) and "Khadija Diouf" (Senegalese Muslim). Aurélie did only a little better than Marie, but she got three times the callbacks of Khadija. As researcher David Laitin explained, "There is no doubt: Anti-Muslim discrimination in at least one sector of the white-collar French labor market is surely holding back Muslim economic success in France." Work, education, social support and justice: that's what women, including Muslim women, need. ■

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A new vision for school reform

The change we need in education policy.

by PEDRO NOGUERA

Before his election President Obama carved out what many regarded as a more progressive and enlightened position on education reform. Recognizing that No Child Left Behind (NCLB) had become widely unpopular because of its overemphasis on standardized tests, he declared, "Don't tell us that the only way to teach a child is to spend too much of the year preparing him to fill out a few bubbles in a standardized test." He pledged to lead the nation in a different direction.

We are still waiting for a change of course. Since the election, the president and his secretary of education, Arne Duncan, have adopted policies that, to the chagrin of many of their supporters, have had far more in common with the previous administration than expected. Market-based reforms like performance pay for teachers, the excessive emphasis on charter schools as alternatives to traditional public schools and the distribution of federal funds—once treated as entitlements to compensate for poverty—through competitive grants all represent a disturbing continuity with the policies of the past. The Obama administration gets some credit for not ignoring education despite being preoccupied with several formidable challenges. But the new initiatives do not reflect the change many hoped Obama would deliver.

For those who worked hard to help Barack Obama win the election, this is a sad and difficult realization, but there is still time to change the focus and direction of the administration's education policies. Decisive measures and bold reforms are needed to address the many serious challenges confronting the nation's schools and to recover from eight years of misguided policies. As state governments enact severe cuts to education budgets and lay off teachers on a scale not seen in more than thirty years, it will be equally important for the federal government to restore our commitment to public education. It must find ways to target support to schools in impoverished communities and, where possible, to use federal funds to compensate for the loss of state and local money.

However, change in education cannot be implemented on a piecemeal basis. The administration needs a new vision, one rooted in the recognition that schools must provide equal opportunity for all children to learn if the schools are to fulfill their vital role as the cornerstone of our democracy. For this to happen, the administration must understand what was wrong with NCLB and the policies pursued by the Bush administration, and it must direct funds where change and innovation are most needed.

To begin with, Obama and Duncan would do well to exercise better judgment in the language they choose and the approach they take in addressing the politics of education. Duncan's assertion that Hurricane Katrina was "the best thing that happened to the education system in New Orleans" because it gave the city a chance to rebuild and improve its failing public schools was particularly callous and misguided, given that the educational needs of many children in that devastated city still have not been addressed. It also wasn't wise

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for Duncan to describe the mass firing of teachers in Central Falls, Rhode Island, as "courageous," especially given that there is no reserve supply of highly qualified teachers waiting for their chance to replace those who have been dismissed. Furthermore, Obama and Duncan's emphasis on narrowly framed pay-for-performance schemes that punish and reward teachers is insensitive to the needs of schools plagued by high failure rates. Educators were an important part of Obama's base in the 2008 election; although this does not mean the administration should avoid shaking things up or refrain from adopting reforms that may anger some union locals, it makes no sense to inflame them with careless and accusatory rhetoric.

Second, while there is ample evidence that major changes and a new direction are needed, this will require more than a rebranding of No Child Left Behind. Rather than launch another set of Bush-type reforms (e.g., academic standards for preschools) or distributing funds through a competitive process that leaves out most states at a time when funding is scarce (e.g., Race to the Top), the administration must comprehend why the policies of the Bush years did not produce greater success. From the exceedingly high dropout rates in many urban school districts (more than 50 percent in cities such as Los Angeles, Detroit, Cleveland and St. Louis) to the hundreds of chronically underperforming schools that Duncan claims need to be shut down, signs of failure abound. Figuring out why NCLB failed to do more to improve schools in high-poverty communities requires rejecting simplistic approaches like those being taken by New York Mayor Mike Bloomberg and his schools chancellor, Joel Klein, who have shut down ninety-one failing schools in the past eight years. It is important to note that these schools failed on Bloomberg and Klein's watch and did not respond to their reforms. Closing troubled schools may sound like decisive action, but it does not amount to a reform strategy. When policy-makers are unclear about why their policies do not result in improvement, and are even less clear about what must be done differently to prevent failure in the future, closing schools is little more than a punitive shell game.

Rather than launch new Bush-type reforms, the administration must comprehend why those policies did not produce greater success.

Third, the need for change is clear, but history has shown that change in public education does not come easily or quickly. The Obama administration deserves credit for its willingness to provide funds to promote reform, but it is far too impressed with quick fixes like mayoral control of urban districts and charter schools. Over the past forty years studies have shown that education policy must be devised in concert with health reform, poverty alleviation initiatives and economic development in order to address the roots of failure in the most depressed areas. From crime and unemployment to teen pregnancy and even racism, education—or the lack thereof—is implicated in many of our nation's social and economic problems. Education can be part of the solution to these and many other problems if reforms are designed and implemented in concert with key constituents—parents, teachers, local leaders and students—and with an understanding of how they must be coordinated with other aspects of social policy.

The government can play an important role in prodding the nation's schools to improve. It can use federal dollars to provide financial incentives for teachers with a track record of effectiveness to work in disadvantaged schools and communities. It can enforce civil rights laws and challenge school districts that have become resegregated thanks to policies that track students based on dubious measures of ability or that use special education, dead-end programs for English-language learners and punitive discipline practices to limit the access of minority students to academic opportunities. And the government can designate the best schools—charters and traditional public schools—as professional development training laboratories where educators from less successful schools can observe and learn about "best practices" in teaching and educational intervention.

Even without the support of the federal government there have been a number of reforms implemented at the local level that show considerable promise. For example, in Birmingham, Alabama, the courts have required schools to address the underlying causes of discipline problems and mandated that they stop arresting students for minor behavior infractions. This has resulted in a remarkable reduction in juvenile incarceration rates in the past two years. As David L. Kirp describes in this issue, there are a growing number of schools in cities like Portland, Chicago and New York that function as community service centers and are providing children with nourishing meals, after-school enrichment programs and regular exercise. Such schools are also producing significant increases in academic achievement and improved health for the children they serve. Innovative partnerships between schools, universities and biotech industries in the San Francisco Bay Area have created pathways to well-paid jobs in a sector of the economy that had formerly been inaccessible to urban youth. And school/university partnerships in Chicago, Philadelphia and Worcester, Massachusetts, have created exemplary schools where gaps in achievement associated with students' race and class have begun to disappear.

Were the administration to embrace a broader and bolder vision of reform and devise policies to back it up, the government could establish promising programs like these in the communities that need them most. If the administration is serious about pursuing such a vision, it would work with

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CRIMES ARE CRIMES NO MATTER WHO DOES THEM

CRIMES UNDER BUSH ARE CRIMES UNDER OBAMA AND MUST BE RESISTED BY ANYONE WHO CLAIMS A SHRED OF CONSCIENCE

1 It is now common knowledge that Barack Obama has openly ordered the **assassination of an American citizen**, Anwar al-Awlaki. Al-Awlaki is suspected of participating in plots by Al Qaeda. He denies these charges. No matter. Without trial or other judicial proceeding, the administration has simply put him on the to-be-killed list.

2 Whistleblowers in the military have now leaked a video showing **U.S. troops firing on an unarmed party** of Iraqis in 2007, including two journalists, and then firing on those who attempted to rescue them, including two children. As ugly as this video of the killing of 12 Iraqis was, the chatter recorded in the helicopter cockpit is even more monstrous. The Pentagon says that **there will be no charges against these soldiers** and the media absolves them of blame. "They were under stress," the story goes; "Our brave men and women must be supported." Meanwhile those who leaked the video came under government surveillance and are targeted as "national security" threats.

3 The Pentagon has recently acknowledged, after denials, **a massacre near the city of Gardez, Afghanistan**, on February 12, 2010. Five people were killed, including two pregnant women, leaving 16 children motherless. The U.S. military first said the two men killed were insurgents and the women were victims of a family "honor killing," but the Afghan government accepts the eyewitness reports that U.S. Special Forces killed the men (a police officer and a lawyer) and the women, and then **dug their own bullets out of the women's bodies to destroy evidence**. Top U.S. military officials have now admitted that U.S. soldiers killed the family in their house.

4 Just weeks earlier, a story broken in Harper's by Scott Horton carried news that three supposed suicides of detainees in Guantánamo in 2006 were **not suicides, but homicides carried out by American personnel**. This passed almost without comment.

In some respects this is worse than Bush. First, because Obama has claimed the right to assassinate American citizens whom he suspects of "terrorism," merely on the grounds of his own suspicion or that of the CIA, something Bush never claimed publicly. Second, Obama says that the government can detain you indefinitely, even if you have been exonerated in a trial, and he has publicly floated the idea of "preventive detention." Third, the Obama administration, in expanding the use of unmanned drone attacks, **argues that the U.S. has the authority under international law to use extrajudicial killing** in sovereign countries with which it is not at war.

Such measures by Bush were widely considered by liberals and progressives to be outrages and were roundly, and correctly, protested. But those acts which may have been construed (wishfully or not) as **anomalies under the Bush regime have now been consecrated into "standard operating procedure" by Obama**, who claims, as did Bush, executive privilege and state secrecy in defending the crime of aggressive war.

Unsurprisingly **the Obama administration has refused to prosecute** any members of the Bush regime who are responsible for war crimes, including some who admitted to waterboarding and other forms of torture, thereby making their actions acceptable for him or any future president.

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unions to develop a reform agenda that improves conditions for teaching and learning in troubled schools and makes it easier to remove ineffective teachers from classrooms. It would encourage students and teachers to utilize their talent, creativity and imagination rather than allowing the school curriculum to be reduced to preparing students to perform on standardized tests. And it would recognize that schools have an essential role to play in renewing and invigorating American democracy by encouraging critical thinking and civic engagement. The administration must not be afraid to remind the public that this is, in fact, the historic purpose for which public schools were created.

Education is an invaluable national resource, one that must be supported and protected even as it is also pushed to change. Two years ago, several of the authors of the articles in this special issue of *The Nation* called upon policy-makers to adopt a comprehensive approach to education reform (see boldapproach.org). We need to see such an approach reflected in education policy now. We must aim higher than we have before and recognize that our future will, to a large degree, be determined by the way America treats its schools and the manner in which it educates future generations. ■

Restoring Our Schools

Forget quick fixes. To compete internationally, we need to improve the whole system.

by LINDA DARLING-HAMMOND

In 1989 President George H.W. Bush and the nation's governors convened to establish a set of six national education goals to be accomplished by the year 2000. Among these were to ensure that all students enter school healthy and ready to learn, that at least 90 percent of students graduate from high school, that all students are competent in the academic disciplines and that the United States ranks "first in the world in mathematics and science achievement."

KAREN CALDICOTT

In 2010 none of these goals have been accomplished, and we are further away from achieving most of them than we were two decades ago. More children live in poverty and lack healthcare; the high school graduation rate has slipped below 70 percent; the achievement gap between minority and white students in reading and math is larger than it was in 1988; and US performance on international tests has continued to drop.

Far from being first in the world in math and science, the United States ranked thirty-fifth out of the top forty countries in math—right between Azerbaijan and Croatia—when the most recent Programme in International Student Assessment tests were given in 2006. In science, the United States ranked twenty-ninth out of forty, sandwiched between Latvia and Lithuania. These rankings and scores had dropped from 2000, when the No Child Left Behind Act was introduced. While the United States performs closer to international averages in reading, its scores also dropped on the international reading tests during the NCLB era.

Declines on international tests and a flattening of growth on the National Assessment of Educational Progress occurred even as state test scores used for NCLB were driven upward. This is partly because the international assessments demand more advanced analysis than do most US tests. They require students to weigh and balance evidence, apply what they know to new problems and explain and defend their answers. These higher-order skills are emphasized in other nations' curriculums and assessment systems but have been discouraged by the kind of lower-level multiple-choice testing favored by NCLB.

In addition, inequality has an enormous influence on US performance. White and Asian students score just above the average for the European OECD nations in each subject area, but African-American and Hispanic students score so much lower that the national average plummets to the bottom tier. The United States is also among the nations where socioeconomic background most affects student outcomes. This is because of greater income inequality and because the United States spends much more educating affluent children than poor children, with wealthy suburbs often spending twice what central cities do, and three times what poor rural areas can afford.

Both segregation of schools and inequality in funding have increased in many states over the past two decades, leaving a growing share of African-American and Hispanic students in highly segregated apartheid schools that lack qualified teachers; up-to-date textbooks and materials; libraries, science labs and computers; and safe, adequate facilities. Thus, the poor US standing is substantially a product of unequal access to the kind of intellectually challenging learning measured on these international assessments.

During his historic campaign for the presidency, Barack Obama described our large race- and class-based achievement gaps as "morally unacceptable and economically untenable." At a time when three-quarters of the fastest-growing occupations

Linda Darling-Hammond is Charles E. Ducommun Professor of Education at Stanford University. Her most recent book is The Flat World and Education: How America's Commitment to Equity Will Determine Our Future *(Teachers College Press), from which this article is adapted. She recently served as the leader of President Obama's education policy transition team.*

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require postsecondary education, our college participation rates have slipped from first in the world to seventeenth. While more than half of young people are becoming college graduates in many European and Asian nations, fewer than 40 percent of American young people—and fewer than 20 percent of African-American and Hispanic youth—receive a college degree.

In minority communities, a greater number join the growing ranks of inmates in what the *New York Times* recently dubbed our "prison nation," which incarcerates more people than any other country in the world. With 5 percent of the world's population, we have 25 percent of the world's inmates, at a cost of untold human tragedy and more than $50 billion annually to taxpayers. In an economy that requires knowledge and skills for employment and success, most inmates are high school dropouts and functionally illiterate—with literacy skills below those demanded by the labor market. States that would not spend $10,000 a year to ensure adequate education for children of color in under-resourced schools later spend more than $30,000 a year to keep them in jail.

Since the 1980s, national investments have tipped heavily toward incarceration rather than education. As the number of prisoners has quadrupled since 1980, state budgets for corrections have grown by more than 900 percent, three times faster than funds for education. With prisons and education competing for limited funds, the strong relationship between under-education, unemployment and incarceration creates a vicious cycle. Today, at least five states spend more on corrections than they spend on public colleges and universities, and some, like California, are decreasing slots in their higher education systems, as other nations are aggressively increasing theirs.

Also unlike high-achieving nations, we have failed to invest in the critical components of a high-quality education system. While we have been busy setting goals and targets for public schools and punishing the schools that fail to meet them, we have not invested in a highly trained, well-supported teaching force for all communities, as other nations have; we have not scaled up successful school designs so that they are sustained and widely available; and we have not pointed our schools at the critical higher-order thinking and performance skills needed in the twenty-first century. Some states are notable exceptions, but we have not, as a nation, undertaken the systemic reforms needed to maintain the standing we held forty years ago as the world's unquestioned educational leader.

A Glimpse of What High-Achieving Nations Are Doing

Other nations have been transforming their school systems to meet the new demands of today's world. They are expanding educational access to more and more of their people, and they are revising curriculums, instruction and assessments to support the more complex knowledge and skills needed in the twenty-first century. Starting in the 1980s, for example, Finland dismantled the rigid tracking system that had allocated differential access to knowledge to its young people and eliminated the state-mandated testing system that was used for this purpose, replacing them with highly trained teachers educated in newly overhauled schools of education, along with curriculums and assessments focused on problem-solving, creativity and independent learning. These changes have propelled achievement to the top of the international rankings and closed what was once a large, intractable achievement gap.

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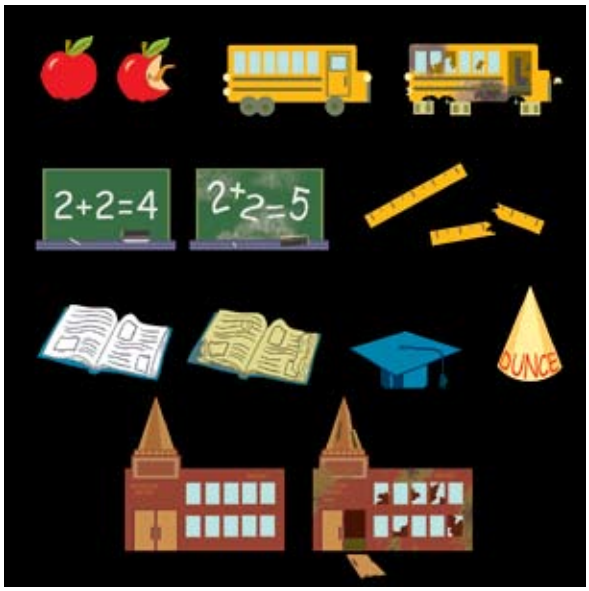
In the space of one generation, South Korea has transformed itself from a nation that educated less than a quarter of its citizens through high school to one that graduates more than 95 percent from high school and ranks third in college-educated adults, with most young people now completing postsecondary education. Egalitarian access to schools and a common curriculum, coupled with investments in well-prepared teachers, have been part of the national strategy there as well.

Similarly, starting in the 1970s, Singapore began to transform itself from a collection of fishing villages into an economic powerhouse by building an education system that would assure every student access to strong teaching, an inquiry curriculum and cutting-edge technology. In 2003, Singapore's fourth and eighth grade students scored first in the world in math and science on the Trends in International Mathematics and Science Study assessments. When children leave their tiny, spare apartments in high-rises throughout the nation, they arrive at beautiful, airy school buildings where student artwork, papers, projects and awards are displayed throughout; libraries and classrooms are well stocked; instructional technology is plentiful; and teachers are well trained and well supported.



JANNA BROWER

A visit to Nan Chiau Primary School, for example, finds fourth and fifth graders eagerly displaying the science projects they have designed and conducted in an "experience, investigate and create" cycle that is repeated throughout the year. Students are delighted to show visitors their "innovation walk," displaying student-developed projects from many subject areas lining a long corridor. Students study plants, animals and insects in the school's eco-garden; they run their own recycling center; they write and edit scripts for the Internet radio program they produce; and they use handheld computers to play games and create mathematical models that develop their quantitative abilities. Teachers, meanwhile, engage in research sponsored by the government to evaluate and continually improve their teaching.

Certainly there are schools that look like this in the United States. But they are not the norm. What distinguishes systems like Singapore's is that this quality of education—aimed at empowering students to use their knowledge in inventive ways—is replicated throughout the entire nation of 4.8 million, which is about the size of Kentucky, the median US state. Furthermore, Singapore is not alone. The pace at which many nations in Asia and Europe are pouring resources into forward-looking systems that educate all their citizens to much higher levels is astonishing. And the growing gap between the United States and these nations—particularly in our most underfunded schools—is equally dramatic.

Contrast the picture of a typical school in Singapore with the description of a California school, from a lawsuit filed recently on behalf of low-income students of color in schools like it throughout the state, a half-century after *Brown v. Board of Education*:

> At Luther Burbank, students cannot take textbooks home for homework in any core subject because their teachers have enough textbooks for use in class only.… For homework, students must take home photocopied pages, with no accompanying text for guidance or reference, when and if their teachers have enough paper to use to make homework copies.… Luther Burbank is infested with vermin and roaches and students routinely see mice in their classrooms. One dead rodent has remained, decomposing, in a corner in the gymnasium since the beginning of the school year.… The school library is rarely open, has no librarian, and has not recently been updated. The latest version of the encyclopedia in the library was published in approximately 1988.… Luther Burbank classrooms do not have computers. Computer instruction and research skills are not, therefore, part of Luther Burbank students' regular instruction.… The school no longer offers any art classes for budgetary reasons.… Ceiling tiles are missing and cracked in the school gym, and school children are afraid to play…in the gym because they worry that more ceiling tiles will fall on them during their games.… The school has no air conditioning. On hot days classroom temperatures climb into the 90s. The school heating system does not work well. In winter, children often wear coats, hats, and gloves during class to keep warm.… Eleven of the 35 teachers at Luther Burbank have not yet obtained full, non-emergency teaching credentials, and 17 of the 35 teachers only began teaching at Luther Burbank this school year.

Under these kinds of circumstances, when the school lacks the rudiments needed to focus on the quality of learning and teaching or the development of higher-order thinking, it is impossible even to begin to talk about developing the deep knowledge and complex skills required of young people in today's and tomorrow's society.

Learning From the Past

These declines are not inevitable. We have made strong headway on educational achievement in the past and can do so again. It is easy to forget that during the years following *Brown v. Board of Education*, when desegregation and school finance reform efforts were launched, and when the Great Society's War on Poverty increased investments in poor communities, substantial gains were made in equalizing educational inputs and outcomes.

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Childhood poverty was reduced to levels almost half of what they are today. Investments were made in desegregation, magnet schools, community schools, pipelines of well-qualified teachers, school funding reforms and higher education assistance.

These investments paid off in measurable ways. For a brief period in the mid-'70s, black and Hispanic students were attending college at rates comparable with whites, the only time this has happened before or since. By the mid-1970s, urban schools were spending as much as suburban schools, and paying their teachers as well; perennial teacher shortages had nearly ended; and gaps in educational attainment had closed substantially. Federally funded curriculum investments transformed teaching in many schools. Innovative schools flourished, especially in the cities. Large gains in black students' performance throughout the 1970s and early '80s cut the literacy achievement gap by nearly half in just fifteen years. Had this rate of progress continued, the achievement gap would have been closed by the beginning of the twenty-first century.

Unfortunately, that did not occur. While nations that today are high-achieving built on the progressive reforms they launched in the 1970s, the United States backpedaled in the Reagan years, cutting the education budget in half, ending most aid to cities and most supports for teacher recruitment and training while also slashing health and human services budgets and shifting costs to the states. This caused states to reduce equalization aid to schools in order to pick up other social service costs.

While high-achieving nations built on the progressive reforms of the 1970s, the United States backpedaled in the Reagan years.

Conservatives introduced a new theory of reform focused on outcomes rather than inputs—that is, high-stakes testing without investing—which drove most policy initiatives. The situation in many urban and rural schools deteriorated over the ensuing decades. Drops in real per-pupil expenditures accompanied tax cuts and growing enrollments. Meanwhile, student needs grew with immigration, concentrated poverty and homelessness, and growing numbers of students requiring second-language instruction and special education services. Although some federal support to high-need schools and districts was restored during the 1990s, it was not enough to recoup the earlier losses, and after 2000 inequality increased once again.

What's to Be Done?

Although some of America's schools are among the best in the world, too many have been neglected in the more than twenty years since the clarion call for school reform was sounded in the 1980s. Clearly we need more than a new set of national goals to mobilize a dramatically more successful educational system. We also need more than pilot projects, demonstrations, innovations and other partial solutions. We need to take the education of poor children as seriously as we take the education of the rich, and we need to create systems that routinely guarantee all the elements of educational investment to all children.

What would this require? As in high- and equitably achieving nations, it would require strong investments in children's welfare—adequate healthcare, housing and food security, so that children can come to school each day ready to learn; high-quality preschool to close achievement gaps that already exist when children enter kindergarten; equitably funded schools that provide quality educators and learning materials, which are the central resources for learning; a system that ensures that teachers and leaders in every community are extremely well prepared and are supported to be effective on the job; standards, curriculums and assessments focused on twenty-first-century learning goals; and schools organized for in-depth student and teacher learning and equipped to address children's social needs, as the community schools movement has done [see David L. Kirp, "Cradle to College," page 26].

Thus far, the Obama administration has taken affirmative steps on a portion of this agenda. Healthcare for children has been secured in the healthcare reform bill, and investments in early childhood education have been increased, although thus far with more emphasis on expanding access than investing in high-quality teaching. The president has increased federal funding for college, which had previously dropped to a level that precluded college-going for many qualified young people who couldn't afford it.

The administration's stimulus package, which made $100 billion available for schools, has stanched some of the acute hemorrhaging of resources and staff that would otherwise have occurred last year as a result of the recession. And the president has signaled his interest in more intellectually thoughtful assessments that "don't simply measure whether students can fill in a bubble on a test but whether they possess twenty-first-century skills like problem-solving and critical thinking and entrepreneurship and creativity." This concern will be pursued through competitive grants to state consortiums that develop new assessments linked to new common core standards of learning in math and English.

The most touted aspects of the Race to the Top initiative, however, focus on peripheral issues rather than investments that have characterized major improvements in education systems at home and abroad. No nation has become high-achieving by sanctioning schools based on test-score targets and closing those that serve the neediest students without providing adequate resources and quality teaching. The implementation of Race to the Top has not required states to equalize funding to underresourced schools or even to maintain their existing commitments to these schools, many of which have had to slash budgets deeply, laying off tens of thousands of teachers, raising class size to more than forty in some cases and cutting successful programs.

In this context, schools serving high-need students are called on to raise achievement or face closure, despite evidence from the Consortium on Chicago School Research that closing more than 100 low-performing schools in that city and replacing them did not result in higher achievement.

Race to the Top requires that states expand charters but fails

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to assure quality and ensure access, despite evidence from the largest national study to date (conducted at Stanford University's Hoover Institution) that charter schools more frequently underperform than outperform their counterparts serving similar students; evidence from a UCLA study indicating that charters exacerbate segregation; and evidence from many studies that charters serve significantly fewer special education students and English-language learners. Some excellent charters do exist, along with excellent schools run by regular public school districts, but the law does not aim to spread excellence so much as it aims to change governance. Nations that are focused on spreading quality—like Singapore, Finland and Canada, for example—have developed strategies for schools to share successful practices through networks, creating an engine for ongoing improvement for the system as a whole.

Rather than establishing a framework for dramatically improving the knowledge, skills and equitable distribution of teachers, as high-achieving nations have done, Race to the Top encourages states to expand alternative routes to certification and to reduce coursework for prospective teachers, despite findings that hiring teachers from low-coursework alternatives reduces student achievement. Further, Race to the Top largely misses the critical investments needed to prepare and distribute excellent teachers and school leaders. Pay bonuses alone cannot succeed in recruiting and retaining teachers without efforts to create competitive, equitable salaries and working conditions. Removing low-performing teachers cannot improve teaching or student outcomes without strategies to ensure a stable supply of highly effective teachers who stay in their communities.

Teacher evaluation needs to become more rigorous, and rewards for effectiveness should be encouraged, but these strategies can succeed only if they are embedded in a system of universal high-quality preparation, mentoring and support—including adequately resourced and well-designed schools that allow and enable good practice. Rather than short-term incentives and quick fixes, federal policy should focus on building capacity across the entire system.

Achieving these conditions will require as much federal attention to opportunity-to-learn standards as to assessments of academic progress, and greater equalization of federal funding across states. It will require incentives for states to provide comparable funding to students, adjusted for pupil needs and costs of living, as well as incentives and information that can steer spending productively to maximize the likelihood of student success. Finally, an equitable and adequate system will need to address the supply of well-prepared educators—the most fundamental of all resources—by building an infrastructure that ensures high-quality preparation for all educators and ensures that well-trained teachers are available to all students in all communities.

While the administration's blueprint for reauthorizing the Elementary and Secondary Education Act (whose most recent iteration was No Child Left Behind) carries some hints of such strategies, its framework still envisions competition and sanctions as the primary drivers of reform rather than capacity-building and strategic investments. If this remains the primary frame for federal and state policy, it is unlikely that we will rebuild good schools in every community.

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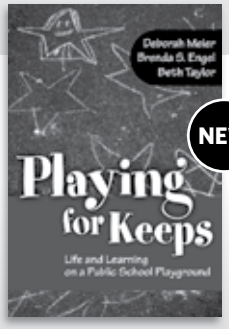

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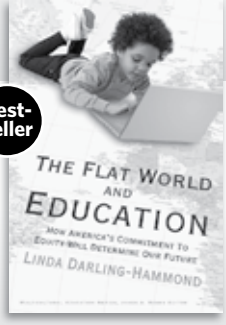

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To meet twenty-first-century demands, the United States needs to move beyond a collection of disparate and shifting reform initiatives to a thoughtful, well-organized and well-supported set of policies that will enable young people to thrive in the new world they are entering. We must also finally make good on the American promise to make education available to all on equal terms, so that every member of this society can realize a productive life and contribute to the greater welfare. This is the challenge that Obama pledged to take on, and the one we should hope he will vigorously pursue. ■

Why I Changed My Mind

"Choice" and "accountability" sounded good on paper, but in reality, they have failed.

by DIANE RAVITCH

When I joined the administration of George H.W. Bush in 1991, I had no preconceived ideas about choice and accountability. "Choice" meant vouchers, a cause that had been rebuffed repeatedly in state referendums and by the courts; the issue had never gotten my attention. "Accountability" was one of those platitudinous terms that everyone used admiringly but no one did anything about. My abiding interest, then and now, was curriculum—that is, the knowledge that is purposefully taught in subjects like history, geography, the arts, literature, civics, science and mathematics. I believed that American schools should have a coherent curriculum so that teachers would know what they are expected to teach and children would have continuity of instruction, no matter where they lived.

KAREN CALDICOTT

However, after I left the administration in 1993, I supported the nascent charter school movement, even going to Albany, New York, to urge legislators to adopt a law permitting such schools to be created in the state. I supported merit pay as a form of accountability, on the assumption that teachers whose students are more successful should be paid more than their peers. I supported testing, expecting that better information would help to pinpoint where improvement was needed. I was affiliated with conservative think tanks, including the Manhattan Institute, the Thomas B. Fordham Foundation and the Hoover Institution. When Congress passed the No Child Left Behind (NCLB) legislation in 2001 and President George W. Bush signed it in 2002, I applauded.

In my new book, *The Death and Life of the Great American School System: How Testing and Choice Are Undermining Education*, I describe how I came to repudiate my support for choice and accountability, though not for curriculum reform, which I still believe is necessary and valuable. Some news accounts have said I did a U-turn, but in fact I was really reverting to the time before I jumped on the bandwagon of organizational change and accountability, the time when I knew that the only changes that matter are in the classroom and in children's lives. Reaching this conclusion was not an overnight conversion but rather the result of watching how the policies of choice and accountability played out in reality. I began to re-evaluate my views as early as 2004, as I watched the implementation of mayoral control in New York City, with its heavy emphasis on accountability and choice.

Many people have told me that I should have known better, and they are right: I should have. But I didn't, and I am trying to make up for it now.

NCLB made accountability the nation's education policy. It used to be the case that educators could more or less ignore federal education policy, because it seldom touched their classrooms. Thanks to NCLB, this is no longer the case. Now federal policy affects every school. In my book I define the governing philosophy of NCLB as "measure and punish." I conclude that this approach, which uses accountability as a stick to threaten schools, has failed.

The law requires that every state test every student from grades three to eight in reading and mathematics, then disaggregate each school's scores by race, limited English proficiency, disability and low-income status. The law mandates that every student in every group must reach 100 percent proficiency by 2014. Every state is left to choose its own test and define proficiency as it wishes. If only one group in a school fails to make steady progress toward that goal, the school faces increasingly severe remedies and sanctions. First, the school will be put on notice; then all students in the school (including those who are doing well) will be offered the choice to go to a different school. In the third year, low-income students will be offered free tutoring after school. If the school does not meet its projected target over five consecutive years, it may be privatized or handed over to state control or charter managers; its staff may be fired, it may be closed or it may be restructured in some other way. Currently, about one-third of all public schools in the nation—more than 30,000—have been stigmatized as failing because they did not make what the law calls "adequate yearly progress."

At the same time that NCLB told states to set their own standards, Congress directed them to participate in the federal

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tests, known as NAEP (National Assessment of Educational Progress), which serve as an external audit of their claims. (Some cities also take the NAEP exams but do so voluntarily, to learn how they compare with the rest of the nation.) Since NAEP is administered to samples of students, no one knows in advance which students will take it, so no one can prepare for it and no one has any incentive to cheat or game the system.

By demanding that all students reach proficiency by 2014, NCLB incentivized states, districts and schools to cheat and game the system. That is the direct outcome of high-stakes testing. Some states have lowered their testing standards, thus making it easier for students to be rated "proficient." Consequently, many states now claim dramatic improvement in their test scores, but these gains are not reflected on the tests given every other year by the federal government. In Texas, where there was supposed to have been an educational miracle, eighth-grade reading scores have been flat for a decade. Tennessee claimed that 90 percent of its students were proficient in 2007, but on NAEP only 26 percent were.

In contrast, progress on the NAEP tests has been meager. Billions have been invested at the federal and state levels in testing and test-preparation materials. Many schools suspend instruction for months before the state tests, in hopes of boosting scores. Students are drilled on how to answer the precise types of questions that are likely to appear on the state tests. Testing experts suggest that this intense emphasis on test preparation is wasted, because students tend to learn test-taking techniques rather than the subject tested, and they are not likely to do well on a different test of the same subject for which they were not prepared.

Despite the time and money invested in testing, scores on NAEP have increased slowly or not at all. In mathematics the rate of improvement was greater *before* NCLB was passed. In reading there have been gains in fourth grade, but the national scores for eighth graders were essentially the same in 2009 as they were in 1998.

It is not only the sluggish improvement in test scores that is troubling. Nor is it the frequency with which states and districts manipulate the scoring of the tests to produce inflated gains. The biggest victim of high-stakes testing is the quality of education. As more time is devoted to reading and math, and as teachers are warned that the scores in these subjects will determine the fate of their school, everything other than reading and math gets less time. This is what doesn't count: history, literature, geography, science, the arts, foreign languages, physical education, civics, etc.

So, the emphasis on accountability for the past eight years has encouraged schools to pay less attention to important subjects and inflate their test scores by hook or by crook. NCLB's remedies don't work, its sanctions don't work and the results are unimpressive. Why members of Congress and Washington think tanks continue to defend this toxic law is a puzzle.

The other popular nostrum of our day is "choice," which has captured the imagination of big foundations and many wealthy business leaders. Vouchers still have fervent proponents, even though only 30,000 students use them, and there

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is slight evidence of their effectiveness. Vouchers have been replaced by charters as the vehicle for promoting free-market reforms. What was but an idea in the late 1980s is a full-blown movement today, with 1.5 million students enrolled in 5,000 charter schools.

Charter schools receive public money but are privately managed. Unlike regular public schools, they operate free of most rules and regulations. More than 95 percent of charter schools are nonunion. When the state comptroller in New York sought to audit the state's charter schools, they sued to block him, claiming that they should be trusted to do their own audits.

Charters vary widely in quality. Some are excellent, some are abysmal, most are somewhere in between. The only major national evaluation of the charter sector was carried out by economist Margaret Raymond at Stanford University. Her study was funded by the staunchly procharter Walton Family Foundation, among others; yet she found that only 17 percent of charters outperformed a matched public school. The other 83 percent were either no better, or they were worse. On the NAEP exams in reading and mathematics, students in charter schools perform no better than those in regular public schools, whether one looks at black, Hispanic or low-income students, or students in urban districts.

I expected that Obama would throw out NCLB and start over. Instead, his administration has embraced some of its worst features.

Yet charter schools have passionate advocates, certainly on the right and also from a group called Democrats for Education Reform. Some charters are run by for-profit firms, some by nonprofits, and some are managed by community-based organizations. Their business model often involves a high turnover of teaching staff, because teachers are expected to work long hours, sometimes sixty to seventy hours weekly, plus be available by cellphone at all hours to their students. This works because so many charters are nonunion schools, but it is difficult to see how this model could be replicated. Not only does it preclude teachers' unions; it precludes a teaching profession in which teachers expect to make a career of teaching and have families.

The media like to focus on a star charter school, as though one extraordinary school is typical. The teachers are young and enthusiastic; the children are in uniforms and well behaved, and they all plan to go to college. But such stories often overlook important factors about charters: one, the good charters select students by lottery, and thus attract motivated students and families; two, charters tend to enroll a smaller proportion of students who are limited–English proficient, students with disabilities and homeless students, which gives them an edge over neighborhood public schools; and three, charters can remove students who are "not a good fit" and send them back to the neighborhood school. These factors give charters an edge, which makes it surprising that their performance is not any better than it is.

The original vision of charter schools in 1988, when the idea was popularized, was that they would be created by venturesome public school teachers who would seek out the most alienated students, those who had dropped out or those who were likely to do so. The teachers in these experimental schools would find better ways to reach these students and bring what they'd learned back to the regular public school. The fundamental idea at the beginning of the movement was that charter schools would help public schools and enroll students who needed extra attention and new strategies.

Now the charter sector sees itself as competition for the public schools. Some are profit-driven; some are power-driven. In some cities, charter chains seek to drive the public schools out of business. In Harlem, which has a heavy concentration of charter schools, the regular public schools must market themselves to students and families; they typically have a budget of $500 or less for fliers and brochures. The aggressive charter chain that competes with them has a marketing budget, according to the *New York Times*, of $325,000. The expansion of charters has been mightily underwritten by hedge-fund managers, the Walton Family Foundation, the Eli and Edythe Broad Foundation and other major benefactors.

Just at the point where I had made an ideological break from my past support of accountability and choice, the Obama administration came into office. I expected that Obama would throw out NCLB and start over. But, on the contrary, his administration has embraced some of the worst features of the George W. Bush era. Obama's Race to the Top competition dangled $4.3 billion before cash-hungry states. To qualify for the money, states had to remove any legal barrier to the expansion of charter schools. States also had to agree to create data systems making it possible to evaluate teachers by their students' test scores. And they had to pledge to "transform" or "turn around" low-performing schools.

Each of these elements is an echo of Bush's policies. The expansion of charters fulfills the dreams of education entrepreneurs and free-market advocates, who would dismantle public education if given the chance. Judging teachers by test scores is wrongheaded because students' scores are affected not only by what the teacher does but by such important factors as poverty, student motivation and family support. Yet only teachers will be held accountable. "Turning around" low-performing schools is a euphemism for NCLB-style punishments: if scores don't go up, schools are closed, privatized, turned into charters or handed over to the state. When Rhode Island authorities announced their intention to fire the staff at the only high school in Central Falls, their decision was hailed by Education Secretary Arne Duncan and President Obama. I thought the decision was meanspirited and wrong. Last year the state commissioner of elementary and secondary education sent a team to the same school and said it was making progress. Why not build on that progress? Why fire the staff without evaluating anyone? (Recently a deal was reached to rehire the entire staff; it includes conditions such as a

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Professor Gary A. Rendsburg holds the Blanche and Irving Laurie Chair in Jewish History in the Department of Jewish Studies at Rutgers University. He received his Ph.D. from New York University. He has written or coauthored more than 120 scholarly articles and 6 books, including *The Bible and the Ancient Near East*.

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longer school day and more after-school tutoring.)

Obama's emphasis on evaluating individual teachers by students' test scores has set off a frenzied effort by states to rewrite their laws in hopes of snaring some of the federal billions. The legislature in Florida recently passed legislation that would have denied tenure to new teachers, based 50 percent of teachers' salaries on gains in student scores, removed any credit for teachers' experience and education, and funded testing of all subjects by cutting 5 percent from the budget of every school district. Teachers and parents rallied and persuaded Governor Charlie Crist to veto the bill, probably ending his career in the Republican Party. Similar measures are moving through other state legislatures, cheered on by think tanks in Washington.

In my book I gather the evidence that persuaded me that accountability and choice are not likely to improve American education. Accountability, narrowly focused as it is, dumbs down education. Choice may enfeeble public education by draining away the best students and leaving what remains to the remnants of the public education system.

None of the policies that involve testing and accountability—vouchers and charters, merit pay and closing schools—will give us the quantum improvement that we want for public education. They may even make matters worse.

We need a long-term plan that strengthens public education and rebuilds the education profession. We need better-educated teachers who have degrees in the subjects they teach; we need principals who are themselves master teachers, since they are the ones who evaluate and support the teachers; and we need superintendents who are knowledgeable educators, since they make crucial decisions about curriculums, instruction and personnel.

We must ensure that every student has the benefit of a coherent curriculum, one that includes history, literature, geography, civics, science, the arts, mathematics and physical education. And we must attend to the conditions in which children live, because their ability to attend school and to learn is directly influenced by their health and the well-being of their families. ■

Bright Ideas

Far from the media spotlight, innovation in education is going on in unexpected places.

by PHILISSA CRAMER

Experimenting With iSchools

KAREN CALDICOTT

When New York City educators Alisa Berger and Mary Moss were developing their new school, they knew they wanted to integrate online instruction into the traditional classroom setting. But they were blown away by the poor quality of existing Internet-based learning programs.

So they built their own, cobbling together off-the-shelf lesson plans and homegrown projects into a comprehensive online curriculum.

Two years later, Berger and Moss's high school, the iSchool, is the crown jewel in New York's new "Innovation Zone," or iZone. iSchool students download assignments their teachers have uploaded to the Internet, and even when they're in the same classroom as their teacher, they're frequently plugged into the web. When the National September 11 Memorial & Museum asked iSchool students to create an exhibit for teenagers, for example, the students produced audio based on interviews with teens in Afghanistan, Israel, England and Louisiana.

New York is counting on the iSchool's approach as one way to boost student achievement.

"A lot of kids struggle in school because the school is not teaching them where they are," says Berger. "Technology allows us to do exactly that."

This fall eighty-one schools, mostly in low-income neighborhoods, will launch programs that blend online and real-time instruction, and the city will begin a randomized study of a subset of these schools to see which helps students advance fastest.

District officials see promise not just for the high-performing high school students the iSchool enrolls but also for struggling students in elementary and middle grades. The new technology speeds up the process of instruction, practice and assessment from several days to a few minutes—keeping easily bored students engaged, officials say. With students working on computers, teachers can administer a quiz, then follow up instantly with one assignment for students who struggled and another, more complex task for those who aced it. The technology also lets teachers customize assignments based on students' needs without the stigmatizing effect of dividing a class into groups by ability.

Good teachers have always differentiated instruction, says John White, New York's deputy chancellor for innovation. But doing it well takes superhuman quantities of time, effort and information, making it a struggle for even master teachers, much less novices juggling 125 students with a wide range of abilities.

Critics charge that moving instruction online reduces the teacher to an automaton and deprives students of human contact. But using technology as a support system doesn't

Philissa Cramer is associate editor of GothamSchools.org.

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take away from the craft of teaching, argues Yosi Ben-Dov, who runs Time To Know, an Israeli company participating in New York City's pilot. Time To Know allows teachers to compile lessons from a menu of options, and intrepid teachers can upload plans of their own for others to use.

"We're not trying to replace the teacher," Ben-Dov says. "We're trying to empower her.… Our belief is that computers can help the teacher do her job better." The innovations all come with a price tag, but the program's supporters believe the cost is worth it.

"The fundamental question is, Are we going to continue to do things the way we've always done them, or are we making decisions to accelerate learning?" says White. "There's an enormous amount of invention and creativity in our school system, and it's imperative that we harness that."

Helping Students to Think—and Act—Locally

Lawrence Barnes Elementary School had been sitting near the bottom of Vermont's school rankings for years. Enrolling many recent immigrants, the Burlington school posted low test scores and used a curriculum that bored students.

Then the school reached out to Shelburne Farms. Over six years the nonprofit farm and education center helped Lawrence Barnes remake itself around the theme of sustainability. Doing so meant more than just teaching about environmental issues or encouraging students to recycle, says Matt Dubel, who heads Shelburne Farms' Sustainable Schools Project. It meant fundamentally reorienting teaching and learning at Lawrence Barnes around the idea that the school is part of a local ecosystem—political, economic and, yes, environmental—that students can influence.

Now, instead of writing five-paragraph persuasive essays that only their teachers read, students identify problems in their community—and appeal to Burlington officials to make changes. They've had success: a neighborhood guide for new immigrants written by third graders is now distributed to all refugees who arrive in Vermont. Test scores are up, there's a waiting list to enroll and this past August, Lawrence Barnes became a full-fledged sustainability-themed magnet school—according to Shelburne Farms, the first in the nation.

Lawrence Barnes's transformation happened without a single teacher being fired. Instead, the achievement boost followed naturally once teachers united around a shared purpose and students got hooked on the local focus, according to Dubel.

"We lose a lot of learners because they're disengaged, and they're disengaged because school doesn't seem to have anything to do with life," he says. "If we really connect academic learning with the life of the community—nearby, outside the doors—we connect academic learning to something that's relevant and meaningful to students."

A small but growing group of environment-oriented educators is pushing this vision in schools across the country. Some, such as Seattle's Facing the Future and the New York–based Cloud Institute, produce sustainability-infused curriculum materials. Others, such as California's Green Schools Initiative, train teachers about how to work sustainability into their lessons. Berkeley's Center for Ecoliteracy last year released *Smart by Nature: Schooling for Sustainability*, a guidebook to more than a dozen exemplary programs, including Lawrence Barnes.

"What we wanted to do [with *Smart by Nature*] was to reinforce how much creativity and innovation is occurring across the country," says Zenobia Barlow, the center's co-founder and executive director.

While some schools start by writing sustainability into their mission statements, others don't have to do it that way, Barlow says. "Sometimes it can start with one school garden, with one teacher," she says. "There's no one right way."

A handful of small-scale studies support the idea that a sustainability focus can turn schools around, but for now most of the evidence comes from stories like Lawrence Barnes's. That could soon change: through the national Place-Based Education Evaluation Collaborative, dozens of schools are teaming up to evaluate their own progress. Proponents of sustainability-focused schools say they expect favorable results because the movement rests on firm pedagogical footing.

"Schools are the ecosystems where our children live, where they spend most of their waking hours," says Deborah Moore of the Green Schools Initiative. "Using the school campus as a learning tool is developmentally appropriate for a lot of ages."

"You can do exemplary instruction in literacy and math and science and social studies, but when we help students integrate and apply those skills, we help them build better models of how the world works," says Dubel. "The more the disciplines come together, the better the learning."

Teachers' Last Stand—or a New Start?

Some see the Obama administration's education policies as forcing a "last stand" for teachers' unions. But what if they augur a new beginning?

As a requirement to win its $4.3 billion Race to the Top, the administration wants states to be able to judge teachers in part according to their students' test scores. Some advocates of accountability contend that at least half of a teacher's evaluation should depend on test scores. Teachers whose students don't measure up ought to be fired, they argue, and unions exacerbate the problem by protecting weak teachers.

Although it's true that unions are pushing back against the idea that standardized test scores can adequately measure a teacher's effectiveness, they're also not defending the way teacher evaluations have long been done. In many districts, teachers are judged according to a single observation, often by an administrator who lacks expertise in the subject. Instead, forward-thinking unions from Rhode Island to Los Angeles are seizing the moment to push for more comprehensive evaluations that allow teachers a hand in the process. Some of them are even willing to stake tenured teachers' jobs on the outcomes.

The movement isn't new, but its proponents say it has quickened because of the Obama administration's policy priorities.

"It's certainly forcing us to look at our work and start assessing it differently," says Mary McDonald, who works for the Illinois nonprofit Consortium for Educational Change. "They've got our attention."

Many teachers have long believed that their unions should

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make improved student achievement a primary goal. More than a decade ago Adam Urbanski, a vice president of the American Federation of Teachers (AFT) and then as now president of the union in Rochester, New York, founded the Teachers Union Reform Network (TURN) to promote that view. "A lot of the unions are getting on the train for the right reasons," Urbanski says. "They know that their presence in these deliberations will help to make the final outcome much more realistic and much better for teaching and learning."

Membership in TURN's most robust subgroup, in the Great Lakes region, has jumped from about thirty, two years ago, to about 200 this spring, according to McDonald, an active member, and union members have reached out to district administrators to promote collaboration. Labor-management collaboration is a hallmark of "peer assistance and review," one approach to improving teacher quality that unions embrace. Launched nearly three decades ago by union leaders in Toledo, Ohio, peer assistance and review connects new teachers and struggling teachers with "consulting teachers" who help them improve. The mentoring process can result in dismissal for tenured teachers who don't get better over time.

The model, which is almost always initiated by a union leader and negotiated in side agreements to union contracts, can be effective at helping weak teachers improve, enticing good teachers to stay in the profession and moving the most ineffective teachers out of the classroom, according to Susan Moore Johnson, a Harvard professor who has studied it.

"What's happening as the policy context changes and demands for better assessments increase is that some of these local unions are recognizing that they have to become very involved in developing a teacher evaluation system that works," she says. "They know they have to take part in that before these decisions about re-employment are made simply by test score data or administrative judgment."

The AFT, one of the two national teachers' unions, launched an "innovation fund" last year, with Urbanski at the helm, to encourage local unions to develop school reform initiatives. Among the fund's first recipients: New York's and Rhode Island's teachers' unions, which plan to build a peer assistance program together. They'll have an advantage over other districts that, until recently, have developed and implemented peer assistance and review programs in a vacuum, McDonald says.

"We realize there's quite a bit that we can learn from each other," she says.

Peer assistance and review has started to pop up in some high-profile places, such as in the new teachers' contract for New Haven, Connecticut, which drew praise from Education Secretary Arne Duncan and AFT president Randi Weingarten. But the model mostly continues to fly under the radar, in part, Johnson says, because it doesn't offer a quick fix for the thorny issue of teacher quality.

"It's not like doing a statistical analysis of student test scores and making a decision," Johnson says. "It requires a great deal of human investment.… But although the costs look like they're substantial in the beginning, actually according to administrators the programs do pay for themselves." ■

Cradle to College

Community schools alter the arc of children's lives by addressing academic *and* social needs.

by DAVID L. KIRP

One fine spring day a few years back, a society matron and prospective donor toured the Salomé Ureña community schools at the northernmost tip of Manhattan, in Washington Heights, with her twenty-something son in tow. Although the young man had gone to a top prep school, he marveled at what he saw—classes taught by City University of New York professors that offer students nearly two years' worth of college credits; one-on-one tutoring; a clinic delivering everything from eye exams to orthodontia; an after-school program whose riches include dance lessons led by members of the New York City ballet corps and Chinese cooking lessons; summertime academics and explorations; even some evening classes for adults that his mother might want to take.

JANNA BROWER

"I wish I'd had a school like this," the young man said.

Almost unnoticed amid the bitter, protracted debate about standardized testing, teacher accountability and charter schools, a nationwide movement embracing the "community school" philosophy of Salomé Ureña is well under way.

These schools break the traditional six-and-a-half-hour-day, 180-days-a-year mold, with programs before and after school, as well as on weekends and during the summer. They supplement academics with medical care and social services. They involve parents as learners and teachers. And they partner with high-asset city agencies, community groups and businesses, attracting new funds to the schools while connecting students to the universe beyond the school-

David L. Kirp, professor of public policy at the University of California, Berkeley, is the author of The Sandbox Investment: The Preschool Movement and Kids-First Politics *and* Healthy, Wealthy and Wise: Five Big Ideas for Transforming Children's Lives, *from which this article is adapted.*

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house door. Community schools are up and running in at least forty-four states and the District of Columbia. A host of city school systems, including Baltimore, Portland, Cincinnati and Tulsa, have bought into the concept; and in England, Scotland and the Netherlands, such schools are part of the national education strategy.

In the summer of 2007 Barack Obama announced that he was so impressed by what Geoffrey Canada, the charismatic leader of Harlem Children's Zone, had accomplished with the cradle-to-college "conveyor belt" approach that he pledged "several billion dollars" to replicate it in twenty sites across the country. A modest down payment, $10 million in planning grants for "Promise Neighborhoods," is now on the table. Education Secretary Arne Duncan also counts himself a believer. When he was CEO of Chicago's public school system, Duncan converted 150 schools into community schools. "What we tried to do was…to put some of our money together—some private sector money, some philanthropic money together," he said in a speech last fall at a Children's Aid banquet. "It was easily the best leveraged money we spent. For every dollar we spent, we were getting back five, six, seven dollars from the business community, from nonprofits, from the social service agencies, from the state, the federal government." Alongside charter schools, Duncan saw community schools as integral to the multibillion-dollar Race to the Top initiative.

Not everyone is smitten. In a *U.S. News & World Report* column in the spring of 2009, Joel Klein, the tough-love chancellor of New York City's public schools, mocked "the favored solution du jour…to reduce the handicap of being poor by establishing full-service health clinics at schools…expanding preschool programs, and offering after-school services"—in other words, community schools. "No single impediment to closing the nation's shameful achievement gap looms larger than the culture of excuse," Klein claimed.

Actually, all the evidence points the other way—the initiatives Klein derides are critical to academic success. The amount of time that youngsters spend hanging out on street corners after school is a better predictor of academic failure than family income or race. On the other side of the ledger, students who get involved with after-school and summer projects have higher math and reading scores than their "gone at 3 PM" classmates. Their attendance records are better, and so is their behavior. Growing up in a "school-like family," where parents take an active interest in their children's schoolwork, has a sizable effect on achievement, sociologists Esther Ho Sui-Chu and Douglas Williams report: "Big gains in achievement could be realized through programs that give parents concrete information about parenting styles, teaching methods and school curricula." The research shows that at top-notch community schools fewer students are suspended and fewer drop out. The achievement gap shrinks, and more youngsters go to college.

When these schools are well run, they can alter the arc of children's lives. Some of the best are located in New York City—twenty-two public schools in Washington Heights, Harlem and the South Bronx, Salomé Ureña among them, run by the Children's Aid Society in tandem with the New York City public school system.

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"We didn't want an easy neighborhood," says Pete Moses, who headed Children's Aid until 2009; and in the early 1990s, when the agency's community schools program was getting off the ground, Washington Heights was the biggest drug distribution center in the Northeast. "We didn't go into these schools as reformers with a solution," says Moses. "We asked everyone, 'What is your dream?' and we told them, 'We're here to stay.' No one believed it, but we're still there. We are powerful because we don't turn over."

In the Children's Aid model, doulas coach expectant mothers, supporting them during delivery as well as in the weeks after childbirth. Parents can enroll in courses that not only hone their parenting skills but also make them savvier job seekers and more knowledgeable about the life of the schools. "When we talk with parents, we talk about practicing 'discipline and love,' not 'discipline and fear,'" says Erica Quezada, education director of Early Head Start at PS 8, a Children's Aid primary school. Designed for infants and toddlers, the federally funded program combines classroom instruction with outreach to families. "Much of the learning about parenting emerges from what's happening while we're making home visits," says Quezada.

Students who are having a rough time can see a psychologist in a clinic that, with its comfortable sofas, feels like a family room.

Two teachers and seven parents sit in a circle with their infants and toddlers in the Early Head Start class that I visit. It's music time, and as one teacher, Patricia Jimenez, strums the guitar, the other, Carmen Gonzalez, shakes a tambourine. The kids sing in their first language, English or Spanish, and clap to the beat. In the Head Start class where I go next, most of the toddlers are busily making collages during their "free time," but one boy, Joseph, is off in another world. Quezada knows him intimately. "I was the doula, and I've followed Joseph ever since," she says, chronicling the family history. "He has speech issues, doesn't shift well from one activity to another. He doesn't pay attention. The parents came from Ecuador, and the teacher goes on home visits to do some planning with them."

For babies with developmental delays, Children's Aid is running an intensive pilot program, with a teacher for each of the toddlers and his or her parents. It costs the moon, but there's a big payoff: an initial evaluation shows that within seven months these babies are starting to catch up with their peers.

Transitions are effortless at PS 8. Early Head Start is down the corridor from the Head Start and state preschool classrooms, and kindergarten classes are across the hall. (The only discernible difference is that the kindergartners wear uniforms.) The preschool kids are usually at the top of their class, boasts Arnery Reyes, Children's Aid director at PS 8.

In sixth grade, many of these youngsters will enroll in Salomé Ureña Middle School. That building, like many in New York City, has been divided into three small schools, and the community schools program sustains them all. One of these small schools, the former middle school, has had its share of academic problems, but another, City College Academy of the Arts, has earned "A" grades on Klein's report card for the past two years. A partnership with City College brings in professors to teach classes in writing, art history and chemistry, and every ninth grader takes college-level Spanish. Some classes are held on the City College Washington Heights campus; there, the students can glimpse a future very different from what they might have imagined.

Space is at a premium at Salomé Ureña—the corridors are jampacked between classes, the classrooms too small to fit everyone comfortably—but none of the principals think about reclaiming territory by kicking out community schools. On the contrary—within minutes of my arrival, it becomes plain that the staff relies on the program for support. As I walk down the corridor, June Barnett, principal of Salomé Ureña, buttonholes psychologist Roy Laird. "Joey's out of control," she says. "Can you see him immediately?"

Teachers and Children's Aid staffers are so well integrated, says Migdalia Cortes Torres, who runs Salomé Ureña's program, that it's hard to tell who's who. Students who are having a rough time can see a psychologist in a clinic that, with its comfortable sofas, feels like a family room, where parents can also meet with a social worker to sort out their child's problems. There may be a shooting down the block from the school, or ICE, the immigration enforcement agency, may have deported the parents while the kids remain behind—whatever the issue, the community school's staff is on top of it.

Jane Quinn, who directs the National Center for Community Schools and runs a national training center for interested school districts, sees life inside the school in terms of a "developmental triangle." There's the core instructional program; the academic, social, cultural and recreational enrichment offerings, designed to expand students' opportunities for learning; and the support services that can remove barriers to learning. "The image of the triangle is meant to emphasize the connections among these three legs," Quinn says, and those connections are obvious at Salomé Ureña. Children's Aid doesn't just share space in this overcrowded building—it is embedded in the school's quotidian life.

At every community school I visit, parents and residents are a constant, taken-for-granted presence. Over the years, Children's Aid has offered scores of adult classes, from English as a second language to a domino tournament, a popular Dominican tradition. When parents whose first language is Spanish or Arabic or Bengali meet with their child's teacher, the organization secures translators. The nonprofit has recruited lawyers to counsel parents with immigration woes and helped families threatened with eviction to avoid homelessness. Children's Aid is the second-biggest employer in Washington Heights, heavily recruiting its staff from the neighborhood; and because it has been there for more than a generation, some

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staffers have grown up in the system. Erica Quezada at PS 8 started as a high school student who tutored middle school kids after school. She never left.

There's no cookie-cutter version of community schools. At the Manhattan Center for Science and Mathematics, which draws 1,700 students from the five boroughs to its East Harlem site, the main goal is to keep these bright kids on track for graduation and college. Typically they're the first generation in their families to think about going to college, and they need help in getting there. As ninth graders, many of them arrive at Manhattan Center unprepared for its rigors and consequently flunk some of their courses. That's an all-too-reliable predictor of dropping out.

Together with Manhattan Center teachers, the Children's Aid team devised a freshman seminar that helps students manage stress and acquire the self-discipline needed to study. The school's freshman failure rate dropped from 36 percent to 24 percent after the first year of the seminar program, and school systems nationwide are exploring the model.

The students at Manhattan Center have a major voice in planning what happens after school. Children's Aid has made them a deal—if ten kids sign up for a club, the nonprofit finds and pays for an adviser. That's how the hip-hop dance club came into being, as well as the knitting club that a group of boys requested. Other projects, like peer tutoring (which relies on the top students to help their classmates), emphasize academics. Children's Aid encourages kids to explore possibilities in higher education, paying to keep the college office at the school open long hours and taking students to see university life firsthand. The aim is to bring higher education within psychological reach, so that earning a BA seems less like an impossible dream.

Even as Joel Klein was fulminating about the culture of excuse, school officials recruited Children's Aid to help design a new school, the High School for Excellence and Innovation (HSEI), which could turn around the city's hardest-to-reach teens. That's a mighty tall order. These students are 16 and 17. By rights they should be starting their junior or senior year; instead they are entering ninth grade. Many came to HSEI reading at a third-grade level, and half have been labeled "special education" youngsters. Such teens are near-certain bets to drop out and likely candidates for the prison track. Enter Children's Aid. "We're not just involved after school—more and more we're part of the school day," says Richard Negrón, who runs the New York City program.

HSEI opened last fall in unpromising temporary quarters—two floors of a tired-looking building that has no gym or library, no cafeteria or health clinic—but bright paint and walls festooned with students' written work do wonders. "In September we couldn't have been sitting here having this conversation," principal Tyona Washington tells me. "There was too much craziness." Over the course of the year the change has been remarkable. "It was 'Fuck this' and 'Fuck that' when they arrived; now it's 'Good morning, Tyona.'" These adolescents aren't cutting school—attendance is at 84 percent, considerably better than at other schools with similar students—and they're coming on time.

Washington gives a lot of the credit to Children's Aid. "It's a 24/7 collaboration…a great marriage," she says. "We're creating an environment for learning and growth, not making excuses." Trips to leafy suburban campuses have got some of these kids strategizing to improve their grades so that they can go to college. "I've got a 79," volunteers one boy. "I need to get my average up six points." I drop in on a seminar where a Children's Aid staffer is leading a discussion of Robert Frost's "The Road Not Taken." None of the students had ever heard of the poet ("He was the one who made Frosted Flakes," jokes one), and the poem is hard to absorb when you hear it for the first time. Yet its pivotal lines—"Two roads diverged in a wood, and I—/I took the one less traveled by,/And that has made all the difference"—become the launching pad for these students to talk about the meaningful choices they make "every day," and their hard-knock lives punch up the conversation.

It's logical that youngsters' test scores will improve if you give them the help they need and get their parents interested.

"If I didn't come here every day," one boy says, "all my goals would go down the toilet."

It's logical that youngsters' test scores will improve if you give them the help they need and get their parents interested, and evaluations back up the anecdotes of accomplishment. In a study conducted during the 1990s, Fordham University researchers concluded that the Children's Aid schools had better reading and math test results, higher attendance rates and more parent involvement than comparable public schools. Teachers' attendance improved as well, presumably because they were less stressed, and relations between students and teachers were better. A 2005 evaluation found 25 percent fewer special education referrals than at similar schools, a key measure of future success. Progress measured in test scores exceeded the citywide average in reading by significant margins, and the schools showed far higher attendance than peer schools. The more time the youngsters spent in the after-school and summer programs, the better they did academically.

Those figures are impressive—they're a big reason Children's Aid is Exhibit A for the community schools movement—but they don't tell the entire story. "Evaluating such schools is very hard, because there are so many moving parts," says Samuel Whalen, research director for the doctoral program in urban leadership at the University of Illinois, who has been following the community school experiment in Chicago for years. What's the right metric of success: whether the schools' reading and math test scores improve and students are on track to graduate? Whether a youngster can get a needed pair of glasses or a dental filling? Whether large numbers of kids are staying after school

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to learn how to sculpt or to bone up on math?

Education reform in the era of No Child Left Behind and Race to the Top pivots on reading and math tests. Community schools are committed to literacy and numeracy, but they also pay attention to less readily measurable outcomes like health, creativity and community service. The question isn't which approach is right—what parent would make such a choice?—but how to blend them effectively. Pitting academics against the rest of children's lives makes for a false dichotomy.

"The 'no excuses' rhetoric is a reaction to a real problem—decades of failed education policy," says Richard Buery, president and CEO of Children's Aid. "But it's an overreaction, because it makes an enemy of a strategy that is no enemy of academic rigor. Unless a school has excellent leadership and teaching, we can't be successful. But you need to pay attention to more than cognition. You have to treat a child as a human being, not as a collection of characteristics."

With school systems across the country drowning in red ink—New York City has announced that it's laying off 8,500 teachers, and that Children's Aid summer programs for middle school kids will be canceled—all eyes are on Washington. The Obama administration has made education a priority. Its 2011 budget calls for spending $49.7 billion, an increase of 6 percent at a time when cuts are widespread. But how will that money be spent? The Education Department has so far been better on rhetoric than dollars for community schools—$10 million in planning grants to Promise Neighborhoods this year and a possible $210 million next year, not much more than a rounding error in the department's budget. "Money goes to where the crises are," says Buery. "People aren't against us—it's just not the priority."

Still, with solid evidence of their effectiveness and mounting political support, community schools should be a big part of the revamped No Child Left Behind Act. These academies of learning and life make for healthier, happier and more engaged students; build social capital; generate lots of money for the schools; and connect parents—what's not to like? Going down this road, rather than obsessing about test scores, is the most promising way to bridge the achievement gap and strengthen the public schools. ■

The Pull of Magnets

Despite the hype around charters, it's magnet schools that have a real track record of success.

by SUSAN EATON

Just beyond the bodegas painted in tropical hues, past the bleak jail for juveniles and the vacancy signs along Broad Street in Hartford, Connecticut, a startlingly sleek, sterile collection of buildings materializes. Weekday mornings, a chain of yellow buses encircles the compound. Under the eyes of security guards and cameras, kids hop down, saunter into buildings and settle into classrooms where the mix of complexions and family incomes does not match Census data culled from these streets.

KAREN CALDICOTT

Many of the children scattered among the elementary, middle and two high schools have indeed been "bused" in, to engineer the creation of racially and economically diverse schools in this otherwise extremely poor, sharply segregated Latino neighborhood. Some of the children who attend the schools in this "learning corridor" live nearby. Others come from the African-American neighborhoods to the north, and a large share travel up to an hour from the lily-white suburbs that surround the city of Hartford, where 46 percent of children are poor. Several other "magnet" schools in and around the city open their doors each morning to a student body that reflects the diversity of the region, as opposed to the homogeneity found in schools that enroll kids from just one town or neighborhood.

"It has been nothing short of a beautiful experience," says Mara Whitman, a white mother of four who opted for a magnet in Hartford over the far more affluent and far less diverse schools in her town, West Hartford. "To be honest, it was not the diversity that attracted us. It was the educational program. The theories that drove instruction were well thought, based in evidence.... But it wasn't long before we realized that the diversity made the experience rich."

After a state court ruled in 1996 that the region's public schools were segregated, in violation of Connecticut's Constitution, magnet schools became the principal remedy. Urban and suburban parents alike were quick to sign their children up for the new schools, which were often (though not always) located in urban communities of color. The waiting lists grew long for the more successful schools. Thanks to an unyielding push by civil rights lawyers, state legislators went on to approve funding for more magnets. Now, in one of the nation's most segregated and economically stratified regions, tiny centers of racial and economic integration have taken root. Significantly—like students attending magnet schools in California, Nevada, Florida, Illinois and other areas—children in Connecticut's magnet schools have registered promising

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academic results, often outdoing those in traditional public schools, which were, by comparison, sharply segregated by race and class. This past December, a study in the peer-reviewed journal *Educational Evaluation and Policy Analysis* compared academic results between students who'd applied to Connecticut's magnets and were not selected through the blind lottery and students who were selected and got to attend a magnet school. The magnet school students who lived in urban ZIP codes (these students are mostly Latino or black) made greater gains in math and reading than did their fellow students who stayed in the urban (segregated) schools. What's more, the suburban students—this group is largely white—attending magnets outdid their peers at traditional suburban (and generally much whiter) schools, too. The "achievement gap" between white students and students of color tended to be smaller in Connecticut's magnet schools than it was in traditional schools.

While research on magnets and academic achievement is far from conclusive and often complicated by methodological concerns, you might think that the increasingly promising results emerging from a variety of locations, coupled with magnets' desegregation mission, would make them serious contenders for the $4.3 billion made available through the Education Department's competitive grant program, Race to the Top. But the Obama administration's reform strategy mostly overlooks the nation's thousands of magnet schools. Instead, administration officials much more strongly favor a newer "reform"—charter schools, which demonstrate no evidence of sustained, large-scale success and tend to compound racial and economic segregation.

Charter schools are similar to magnet schools in that students choose to attend them, and the schools usually offer a specialized theme or curricular strength, such as visual arts or science. But magnets, begun in the 1960s and expanded in the '80s as voluntary desegregation measures, are operated by public schools or publicly funded agencies that work closely with public schools. They are thus subject to all the regulations (and union rules and civil rights protections) associated with public schools. Though some magnets have clearly strayed from their original desegregation mission, the magnet schools that operate as originally intended either attract a racially diverse student body or are at least actively trying to. They usually provide free public transportation for students to travel longer than typical distances. Charter schools, on the other hand, can be operated by just about anyone, including private corporations, nonprofits, individuals who may or may not have experience with teaching children or operating an educational institution, or religious groups in partnership with other entities. They don't necessarily need to offer free transportation, and they are under no mandates to be racially or economically diverse.

Charter schools have enjoyed enthusiastic rhetorical support since Obama's presidential campaign and, in recent months, increasing monetary support. In March 2009, the president told the US Hispanic Chamber of Commerce: "I call on states to reform their charter rules and lift caps on the number of allowable charter schools wherever such caps are in place." In public statements about Race to the Top, Education Secretary Arne Duncan made it clear that states that limit charter school expansion would not be looked upon favorably in Race to the Top's competitive grant program.

Lawmakers in several states, strapped for cash mid-recession, either did or at least tried to do exactly what the administration told them to do. Some did it fast, passing laws that supported the development of more charters, without evidence that such schools were consistently doing well by children. In response to the administration's pressure, Louisiana, Massachusetts, Illinois, Tennessee and Delaware either lifted their caps on charter schools or let their moratoriums lapse. And not surprisingly, the winners in the first round of funding, announced at the end of this past March, were Delaware and Tennessee, where officials had significantly loosened restrictions on how many charter schools could operate. In Tennessee, legislators had even created a new funding stream to pay for charter school facilities. Together, the two states will receive about $600 million, not only for charters, of course, but for larger reform plans in which charters play an important role.

The Obama administration favors a newer 'reform'—charter schools, which tend to compound racial and economic segregation.

The Education Department's proposed 2011 budget would spend $490 million to promote school choice, the vast majority of which would go toward charter schools. This amounts to a 20 percent increase—or about $81 million—over what charters receive in the current budget. By comparison, federal funding for magnet schools comes mainly through the Magnet Schools Assistance Program. This year, MSAP will provide about $100 million to some forty schools across the country. The program, though, has been flat-funded since 2008. President Obama's proposed 2011 budget does include a modest funding increase for the program, bringing it up to $110 million.

"The federal government is beginning to pay us a little bit more attention," says Robert Brooks, executive director of the Washington-based Magnet Schools of America, which sponsors conferences and provides technical services to magnet schools. "But this overemphasis on charter schools is astonishing. Magnet schools have a much longer record of success in terms of academic achievement and equity. I think maybe the difference is that charter schools are viewed as a newer concept. People tend to like the idea of a newer concept. Legislators especially like to be associated with newer concepts."

Magnets, Brooks supposes, are unfairly suffering from their roots as "equity-minded institutions from the '70s that sought integration." Now, he adds, "there are all kinds of people questioning whether that's even a valid way to educate children

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anymore, which flies in the face of what the research says. But we are not straying from our message: diversity is beneficial for kids and for society."

The charter/magnet imbalance has unnerved many advocates, who are urging federal officials to give the well-performing, racially diverse magnet schools consideration at least equal to charters. (Full disclosure: the Harvard-based Institute where I work is a member of the National Coalition on School Diversity, which has submitted formal comment letters to the administration on related issues.)

"We think that the practice of ignoring magnet school successes and pushing charters as the only major focus of choice in federal initiatives…ignores some strong evidence about [magnets'] benefits," Professor Gary Orfield, co-director of UCLA's Civil Rights Project, wrote in a 2009 memo to top Education Department officials. "In thinking about school choice and innovation we recommend that…increases in resources be competitively available between both options, and that civil rights policies common in magnets be extended to charters."

The Civil Rights Project released a study in January demonstrating that charter schools tend to exacerbate segregation, which is linked to a host of short- and long-term educational and social inequalities. African-Americans, our most segregated racial group, are the students most segregated in charter schools. According to the report, 70 percent of black students enrolled in charter schools attend schools that are 90 to 100 percent nonwhite. This is about twice the share of black public school students who attend schools that are segregated. What's more, the report found that charter schools failed to produce data related to enrollment and accessibility for students who are still learning English or about students from low-income families.

Magnet schools alter the status quo of residential segregation by allowing kids to pursue opportunity across man-made boundaries.

Populist commentators of all ideological stripes have won easy applause in recent years by passionately insisting that when it comes to learning, demographics do not matter. They point to isolated examples of all-black or all-Latino schools—often charter schools—that "beat the odds." However, the notion that high-poverty racially segregated schools are equal to middle-class schools has been consistently disproved by a half-century of research. Loudly heralding the relative few that "beat the odds" (typically not for more than two years) obscures the harsh reality of the odds themselves, which remain low for kids who attend high-poverty segregated schools.

The weight of social science evidence demonstrates that racially diverse schools are associated with achievement in math and reading for Latino and African-American students, with more advanced critical thinking skills, intellectual engagement and a reduction in racial stereotyping. Learning challenges that may be related to stress, poverty, health problems or neighborhood violence, researchers are starting to understand, may be more effectively overcome in schools that are not sharply segregated by race and class.

The decades of findings on these points have led to something rare in social science—a consensus. In 2007 the National Academy of Education wrote, "In summary, the research evidence supports the conclusion that the overall academic and social effects of increased racial diversity are likely to be positive. Racial diversity per se does not guarantee such positive outcomes, but it provides the necessary conditions under which other educational policies can facilitate improved academic achievement, improved intergroup relations, and positive long-term outcomes."

Meanwhile, there is no consistent evidence and certainly no research consensus that charter schools, just by virtue of being charter schools, do any better, on average, than traditional public schools. A 2009 study conducted in Boston returned typical results. Some charters there did better than the traditional public schools, and some did worse. A study of charters in Minnesota, which has the nation's oldest system of charters, found that students in charters generally did less well on achievement tests than similar students in public schools. That study, conducted by the University of Minnesota–based Institute on Race and Poverty, also found that charter schools tended to worsen segregation levels in Minneapolis and St. Paul. Researchers concluded that "although a few charter schools perform well on standardized tests, most offer low income parents and parents of color an inferior choice—a choice between low-performing traditional public schools and charter schools that perform even worse."

A 2005 study from the Economic Policy Institute found that in Florida, Michigan, Texas and Pennsylvania, students in charter schools that had been operating for more than three years did no better on state tests than public school students did. The number of charter schools, however, has more than doubled over the past decade, from about 2,300 in 2001 to nearly 5,000 now. According to Magnet Schools of America, there are about 4,000 magnet schools in the United States, enrolling about 2.5 million students.

That charters do not upset the stratified structure of public education—i.e., they tend to leave white kids in "white" schools and African-American students in identifiable "black" schools—may be exactly what makes them, at first glance, appear politically neater than magnet schools. After all, if magnets work as intended, they absolutely will alter the status quo of entrenched residential segregation by allowing kids of differing racial backgrounds to pursue opportunity across man-made boundaries. (As even magnet advocates are quick to point out, not all magnets are racially diverse. Those that are not, diversity advocates argue, should not be the ones that are rewarded with federal dollars.)

There is no sign that the administration might be open to rethinking its infatuation with charters. However, the mission

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You deserve a factual look at . . .

The Forgotten Refugees

Why does nobody care about the Jewish refugees from Arab lands?

The world is greatly concerned about the Arabs who fled the nascent state of Israel in 1948. But no mention is ever made of the Jewish refugees from Arab lands. Their history is as compelling and arguably more so than that of the Arab refugees from Israel.

What are the facts?

Jews in Arab countries. Jews have lived since Biblical times in what are now Arab countries. After the Roman conquest, Jews were dispersed, mostly to what are now the Arab countries of North Africa and the Middle East. Many Jews migrated to the Iberian peninsula – Spain and Portugal. They were expelled from those countries at the end of the 15th century. They mostly migrated to the Arab countries, where, by now, they have been living for almost 500 years, many Jews for over 2,000 years.

There is a myth that Jews had an easy life in Muslim/Arab countries. The opposite is the case. Jews under Islam were treated as second-class citizens and worse. The relationship was governed by a system of discrimination, intended to reduce the Jews in those Arab countries to conditions of humiliation, segregation and violence. They were excluded from society, from government, and from most professions. They were barely tolerated and often, under the slightest pretext or no pretext at all, were victimized by vicious violence.

When Israel declared its statehood in 1948, pogroms broke out across the entire Arab/Muslim world. Thousands died in this violence. Their homes and businesses were destroyed, their women violated. The vast majority of those Jews fled from where they had lived for centuries. They had to leave everything behind. Most of those who were able to escape found their way to the just-created state of Israel.

Over 850,000 Jews were driven from Arab countries, most of them in 1948, at the birth of Israel. Most of the remainder were chased out during or immediately following the Six-Day War in 1967, when, in fury about the disastrous defeat, the "Arab street" erupted and subjected its Jewish population to bloody pogroms. Israel received every one of those Jewish refugees from Arab countries with brotherly open arms; it housed, fed, and quickly integrated them into Israeli society. They and their descendants now make up more than one-half of the country's population.

Jews in Arab Countries

	1948	Now
Algeria	140,000	0
Egypt	75,000	100
Iraq	135,000	100
Lebanon	5,000	100
Libya	38,000	0
Morocco	265,000	5,700
Syria	30,000	100
Tunisia	105,000	1,500
Yemen	55,000	200

A different history. It is instructive to compare the history of those Jewish refugees with that of the Arabs who fled from Israel during its War of Independence. There were about 650,000 of them. Most left following the strident invocations of their leaders, who urged them to leave, so as to make room for the invading Arab armies. After victory was to be achieved, they could return to reclaim their property and that of the Jews, all of whom would have been killed or would have fled.

In contrast to the Jewish refugees, who were quickly integrated into Israel, the Arab countries resolutely refused to accept the Arab refugees into their societies. They confined them into so-called refugee camps. Those camps are essentially extended slum cities, where their descendants – now the fourth generation – have been living ever since. The reason for the Arabs' refusal to accept them was and still is the desire to keep them as a festering sore and to make solution of the Arab/Israel conflict impossible. These "refugees," whose number has by now miraculously increased from their original 650,000 to 5 million, are seething with hatred toward Israel and provide the cadres of terrorists and suicide bombers.

The Palestinian refugees occupy a unique place in the concern of the world. Since 1947, there have been over 100 UN resolutions concerning the Palestinian refugees. But there has not been one single resolution addressing the horrible injustices done to the nearly one million Jewish refugees from the Arab states.

There have been many millions of refugees in the wake of the Second World War. With only one exception, none of those refugee groups occupy the interest of the world and of the United Nations in a major way. That one exception are the Palestinian refugees. In fact, a special branch of the United Nations (UNRWA) exists only for the maintenance of those "refugees." In the over sixty years of the existence of this agency it has cost many billions of dollars, most of it – you guessed it – contributed by the United States.

Jewish refugees from the Arab countries are the forgotten refugees. The world, and especially of course the Arabs, claim compensation from Israel for the Arab refugees and insist on their return to what has been Israel for over 60 years. The Jewish refugees from Arab countries, all Israelis now, have no desire to return to their ancient homelands, where they had been treated so shabbily and so brutally. But if there is to be any compensation, those forgotten Jewish refugees are certainly entitled to such compensation as much as the Arab refugees. Anything else would be an outrage and a great injustice.

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of magnet schools seems to be in line with the administration's recently and clearly articulated concerns about racial segregation and concentrated poverty—creating an opening for advocates to press for magnet school funding increases beyond what the administration has already proposed.

In March, Secretary Duncan stood at the Edmund Pettus Bridge in Selma, Alabama, and reiterated a statement Barack Obama had made in Philadelphia as a presidential candidate: "Segregated schools were, and are, inferior schools. We still haven't fixed them fifty years after *Brown v. Board of Education*—and the inferior education they provided, then and now, helps explain the pervasive achievement gap between today's black and white students."

Similarly, at a Black History Month celebration recently, Housing and Urban Development Secretary Shaun Donovan stated even more clearly a commitment to reducing segregation and concentrated poverty. "The neighborhoods of concentrated poverty we see in communities across America didn't result in spite of government—but in many cases because of it," Donovan said, touting the administration's "commitment to building more inclusive communities." He added that "we expect communities receiving federal funding to end practices that limit diversity and start promoting stable, inclusive communities."

Civil rights groups view magnet schools as a potentially good offering for an "inclusion"-seeking Democratic administration to carry across the legislative aisle. Magnets embody "choice," and so should win support from conservatives who advocate free-market solutions for public schools. Magnet schools' survival hinges on their knack for "innovation," as educators must create curricular themes that attract families. As public schools, magnets are "accountable" and are judged on results from state-administered tests. Modern buzzwords apply, but at heart magnets remain civil rights–era remedies to structural inequality. Even if they aren't shiny and new, magnets might come close to that rare mix of having something for everyone.

"I hear about other schools that are all-black or all-white trying to teach about how the society is diverse and trying to get it through to kids that they have to understand other perspectives," says Lorna Shipp-Parmlee, who has three children attending magnets who ordinarily would have been assigned to high-poverty schools in their predominantly black Hartford neighborhood. "But when you are in a school that really is diverse, you aren't learning diversity—you are actually living it." ■

Letters

(continued from page 2)

(clue: NDOP may be held "any day but Sunday"). Muslims, Hindus, Buddhists, Jews and other non-Christians need not pray—this would only confuse God!
G.M. Chandu

Brentwood, Tenn.
Opposition to a National Day of Prayer is worth considering. Statements concerning the being, or nonbeing, of a deity are at best philosophical speculation and at worst culturally conditioned arrogance. However, it *is* beneficial for individuals and corporate entities to articulate their most important concerns and objectives. How about a National Day of Attention to That Which Is of Utmost Concern?
Keith Davis

Our Cosmic Healthcare Bill

Somewhere in Cyberspace
Some people are way ahead on "Learning to Love the Healthcare Bill" [Katherine S. Newman and Steven Attewell, May 17]. I wrote the following letter to President Obama after the Sunday vote in the Senate: "Dear Mr. President: As it is written, Jesus Christ cured a paralytic on a Sabbath and was denounced by the Pharisees. As we heard in the media recently, Barack Obama enabled the curing of 30 million Americans by a vote on a Sunday and was roundly criticized by the Republicans. I am suggesting that Plutarch, if he were alive today, would welcome the opportunity to write another chapter of *Parallel Lives* to compare the two.… God has been waiting patiently for 13.7 billion years since the Big Bang for you to accomplish this vote for the American people, and there is joy in Heaven over the victory. What you have done has cosmic import that goes beyond just finishing the work of T.R., F.D.R., H.S.T. and L.B.J."

I am 75. I knew the WPA, with its steam shovels and Mack chain-drive trucks, and I worked for FDR on the 1944 election. We need more of the same. Healthcare for all is the crown jewel. If enough people could be convinced of this, Obama could *increase* his dominance in Congress in November.
Emmanuel P. Papadakis

Daddy, Where Do Morals Come From?

Appleton, Wis.
Interviewer Christine Smallwood, in "Talking With Tony Judt" [May 17], suggests that "people on the left are so embarrassed about the language of morality." As a person on the left, I speak eagerly and confidently about morality, in the language of human rights, civil rights, environmentalism and other ways that the actions of individuals affect other individuals. What embarrasses me are arguments from authority, those uncompromising, pope-like dictums about what God wants, that yield neither to evidence nor reason. I have read too many comments from absolutists who state that without God, my morality must be relative and arbitrary. Morality comes from people learning to live together. An omnipotent God could easily have said, "Thou shalt steal." How arbitrary is that?
James Olski

Indeed…

Albany, N.Y.
Kai Bird and Victor Navasky's December 1981 special issue of *The Nation*, which Bird deemed important enough to summarize for readers thirty years later in "The Hebrew Republic" [May 10], is thankfully mistaken on one vital point. He writes, "It made no sense to offer automatic citizenship to any Jew anywhere." He is wrong. The Law of Return provided needed sanctuary to Jews living in the Soviet Union, oppressed under the anti-Semitic yoke of a murderous dictatorship. In the twenty years since Russia opened its doors to mass emigration in 1989, more than 1 million Russians have immigrated to Israel. For those who escaped, it made sense indeed.
Edward Horowitz

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Books & the Arts.

SETH WENIG/AP

A woman drags a 200-pound float during Brooklyn's annual West Indian American Day Parade, celebrated by immigrants from the Caribbean, September 4, 2006.

Movement and Rootedness

by NICHOLAS GUYATT

In the bright surge of liberal commentary that accompanied Barack Obama's electoral triumph, a sense of historical redemption was palpable. As Obama told the huge crowd that gathered on election night in Chicago, "The dream of our founders is alive in our time." If anything, Obama seemed happier to connect his candidacy with George Washington than to present himself as the heir of Rosa Parks or Martin Luther King Jr. From his celebrated speech on race in Philadelphia to his inaugural address, Obama embedded black history in the broader American story. The founders had produced a Constitution filled with noble promises; it was "signed but ultimately unfinished" and relied on the efforts of generations of Americans—white and black, men and women—to extend the franchise, extinguish slavery and conquer prejudice.

Obama's deft deployment of these arguments played an important role in his victory. During the spring of 2008, when critics were looking to corner him as a racial firebrand, Obama used what we might call the integrationist version of American history to sidestep the controversy. But he was hardly straying from academic orthodoxy. Like Obama, liberal historians have long viewed the Declaration of Independence and the Constitution as watershed documents that established freedom and equality as the guiding lights of American history. These high ideals, the argument goes, first hastened the demise of slavery in the Northern states, then created such unbearable pressure in the "house divided against itself" (in Lincoln's memorable phrase) that a terrible Civil War became unavoidable. During the 1860s a second American Revolution secured political and legal equality for the 4 million people who had been enslaved. But then the racism of Southern whites (and the apathy of the North) curtailed the march of freedom. Still, the pressure of American ideals inspired the civil rights movement of the mid-twentieth century. With Obama's victory the final barrier to black achievement fell, and the integration of black people into the mainstream was complete.

The appeal of the integrationist story is obvious. It presents the founders as visionaries whose legacy eclipsed their mistakes and the prejudices of their day. We may lament their failure to rivet abolitionism to the Constitution, but their love of equality ensured that America's institutions had a kind of egalitarian inevitability about them. (As Obama put it in his Philadelphia speech, "The answer to the slavery question was already embedded within our Constitution.") The integrationist story also sets American history on an upward track: it suggests that the nation started out with great ideals, then strived to expand their reach and meaning. It is a story of reconciliation, not opposition or confrontation. For more than two centuries, Americans have looked to "narrow that gap between the promise of our ideals and the reality of their time"—Obama again.

But is this the only way of looking at black

The Making of African America
The Four Great Migrations.
By Ira Berlin.
Viking. 304 pp. $27.95.

The Political Worlds of Slavery and Freedom
By Steven Hahn.
Harvard. 246 pp. $21.95.

Nicholas Guyatt, a fellow at the Stanford Humanities Center, teaches American history at the University of York in England. His most recent book is Providence and the Invention of the United States *(Cambridge).*

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history? Or the best way? During the 2008 campaign, Obama famously denounced his former pastor, the Rev. Jeremiah Wright, when the press began replaying snippets of sermons in which Wright offered an unsparing interpretation of American history. The media found it hard to get past the bracing refrain of "God damn America!" in a sermon Wright delivered just after the invasion of Iraq in 2003. But Wright's confrontational oratory was hardly grounded in racial or political nihilism; he drew upon a rich black tradition of holding the United States to account. For Wright, the integrationist version of American history had whitewashed the past. In fact, the American story had been punctuated by injustice and blindness toward nonwhite peoples, from the seventeenth-century Atlantic Seaboard to the twenty-first-century Middle East. The problem, Wright held, was not some innate evil on the part of Americans but the tendency of Americans throughout history to confuse the actions of their government with the will of God: "We believe God ordained African slavery. We believe God approved segregation.... We believe God was a founding member of the World Bank and the International Monetary Fund." Black history was important precisely because it provided a vantage point on this flattering but delusional sense of America as a redeemer nation, a city upon a hill.

The uproar over Wright's remarks was a familiar quandary for black orators. In the nineteenth century, Frederick Douglass weighed whether to excoriate the United States for its failings or to present black rights as the fulfillment of the founders' dream. The political power of memory was formidable. Although Douglass knew that Abraham Lincoln had struggled to embrace a vision of black citizenship and racial integration, after 1865 he frequently lionized Lincoln as a champion of black rights. Martin Luther King Jr. faced the same dilemma in the 1950s and '60s. Initially he presented civil rights as a triumph of deep-rooted American ideals; toward the end of his life, however, he lamented the "prophesying of smooth patriotism" and, in the face of poverty at home and imperialism abroad, insisted on "a firm dissent based upon the mandates of conscience and the reading of history."

In the back and forth with reporters following his castigation of Wright, Obama let slip what was at stake for the presidential candidate in these debates about the black past. "When you start focusing so much on the plight of the historically oppressed," he argued, then "you lose sight of what we have in common; that it overrides everything else." This was, of course, precisely the point: an oppositional version of black history could shake up the complacent patriotism that underpinned the integrationist story. But by making these sharper arguments, black orators risked ostracism and the accusation that they were themselves racist. Even if Obama had recognized some truth in Wright's jeremiad, to acknowledge as much would have been political suicide.

In *The Making of African America*, distinguished historian Ira Berlin challenges the integrationist story. Berlin, who has written widely about the realities of the slave experience, stumbled on the subject of his latest book as he wrapped up a radio interview in Washington, DC. Berlin had been asked about emancipation and agency: did Lincoln free the slaves with a stroke of his pen, or did the slaves effectively free themselves by fleeing the plantations and fighting in the Union army? After the interview, Berlin chatted with some of the black employees of the station and was struck by the fact that they had all been born outside the United States. As immigrants, they were curious about the Civil War and other controversies in the black past but convinced that these "had nothing to do with them. Simply put, it was not their history."

In the 1990s nearly a million people entered the United States from the Caribbean.

In the period between the abolition of the foreign slave trade in 1808 and the overhaul of American immigration laws in the 1960s, the number of black immigrants to the United States was extremely small. While America was remade by successive waves of immigration—German, Irish, Chinese, Japanese, Italian, Jewish—only a trickle of blacks entered the nation. By 1965, when the Voting Rights Act placed the capstone on the struggle for equality, blacks could boast deeper American roots than almost every other racial or ethnic group: nearly all were descended from families that had been living in North America since the seventeenth or eighteenth century.

That same year, the Johnson administration promoted another initiative—the Immigration and Nationality Act—which would profoundly affect the composition and experience of America's black population. In the next decades, black immigrants came to America en masse for the first time in more than a century and a half. From Britain, Africa, the Caribbean and elsewhere, a rising tide of black people sought economic opportunity or asylum from political chaos and environmental disaster. In the 1990s alone, nearly a million people entered the United States from the Caribbean; Berlin puts the total number of black immigrants since 1965 at "several million." By the turn of the twenty-first century, around one in ten black Americans was either an immigrant or the child of immigrants.

Which version of American history should these new arrivals embrace? Do they align themselves with earlier generations of (nonblack) immigrants who overcame prejudice and penury with determination and hard work? Or do they see themselves as heirs to those black Americans who endured the crushing regimes of slavery and racism? These questions have a cultural edge, touching on the ways people define themselves and remember the past. They are also deeply political. Berlin wrote his book as Obama made a spectacular ascent to the White House, and he watched with interest as Debra Dickerson, Stanley Crouch and other African-American writers and pundits publicly aired their suspicions that Obama wasn't really "black." Dickerson, in an infamous article that appeared in *Salon* in 2007, suggested that only the descendants of African slaves could truly merit the identification. Obama, whose Kenyan father spent six years as a student in the United States, was poised to reap "the benefits of black progress...without having borne any of the burden."

At the time, Dickerson and Crouch took a lot of heat for their comments. A motley alliance of gloating conservatives and piqued liberals rejected as "racism" any attempt to exclude Obama from the black American experience, even though both commentators had suggested that an Obama presidency could benefit African-Americans. (Crouch welcomed the arrival of "our first black president" even if it was through a racial "side door"; Dickerson conceded that "Obama, with his non-black ass, is doing us all a favor.") Berlin notes that prejudices and tensions between black immigrant communities and the American-born black population have been bubbling for decades. In the crudest iterations, immigrants have viewed African-Americans as lazy, entitled and hopelessly hung up on a distant memory of oppression, while African-Americans

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have seen black immigrants as arrogant usurpers with no respect for history, willing to "act white" if doing so will hasten their assimilation.

Has the recent wave of black immigration resulted in a crisis of black identity, or does it provide an opportunity to reimagine black history and experience? One way to resolve the tensions would be simply to exclude immigrants from that identity, as Dickerson implied by denying the blackness of Obama. But Berlin thinks he has a better idea: he wants to remind us that African-American history has also been shaped by the experience of migration, and that the descendants of American slaves may have more in common with new immigrants than they realize.

In *The Making of African America*, Berlin proposes realigning black history around four distinct episodes of population transfer. During the seventeenth and eighteenth centuries, some 400,000 Africans were transported to what is now the United States in the appalling confines of the slave ship. The middle passage threw together black people who spoke different languages and had few common ties or experiences, and cast them into the increasingly vicious slave economies of British America. But in Berlin's telling, this was only the first—and, in fact, the smallest—of a series of mass population movements that defined the African-American experience. After Congress banned the foreign slave trade in 1808, prohibiting the importation of slaves from Africa and the Caribbean, a vast internal trade funneled black people from the upper South toward the booming cotton fields of the Southern interior. Between 1800 and 1860 around a million men and women were transported from the Atlantic states to the "black belt" stretching from Georgia to Texas. Although these slaves remained within the boundaries of the United States, they were wrenched from the familiarity and certainties of their homes in the East as their ancestors had been from Africa decades earlier.

Alongside these sweeping forced transfers of enslaved people, Berlin chronicles two further "great migrations": the movement of black people from the rural South to the urban North in the middle decades of the twentieth century, and the arrival of those millions of black immigrants after 1965. His third episode is the largest of all the examples. Between 1900 and 1970 around 6 million blacks moved from the South to the North, overwhelmingly from rural areas to big cities like New York, Chicago and Detroit. Unlike its predecessors, this was a voluntary migration. Blacks may have felt the push of Jim Crow and the iniquities of the sharecropping system in the South, but they also recognized new economic opportunities in the North and moved quickly to seize them. These opportunities depended, ironically, on war and xenophobia: the American entry into World War I stemmed the flow of white immigrants from Europe, while conscription emptied factory floors and created an urgent need for labor. After the war, the clamor for restrictive immigration legislation choked off the torrent of foreign arrivals. Again, it was Southern blacks who stood ready to benefit. World War II presents a similar story. In the year after Pearl Harbor, the number of blacks employed in manufacturing spiked from 500,000 to 1.2 million. The war allowed African-American workers to benefit in various degrees from the long industrial boom of the postwar decades, even as whites deserted the inner cities and hastened the process of residential segregation.

Berlin has little to say about the colonization mania among whites in the antebellum North.

A focus on mobility allows Berlin to present black history as a contrapuntal narrative of "movement" and "place": he is fascinated by the ways black people, during and after slavery, nurtured a deep sense of rootedness even as circumstances compelled them to remake their world on repeated occasions. This dynamic of movement and place is evident in black musical forms, to which Berlin pays close attention; but he wonders if this way of viewing black history will allow us to marry the "traditional" black story with the experience of recent black immigrants and with American history more generally. "The history of the United States rests upon movement," Berlin argues, "and then the embrace of place."

Blacks haven't featured in the traditional celebration of immigrant success in America, perhaps because the middle passage seems fundamentally at odds with the happy myth of a nation of self-made outsiders. But Berlin's desire to broaden the focus of black migration, and to consider the voluntary movements of the twentieth century alongside the upheavals of slavery, suggests some common ground. He wonders if the "rhythm of movement and rootedness" could offer "a powerful reminder of what Americans share."

There's something tantalizing about this approach, which promises to internationalize and diversify the traditional version of the black past while linking it to a familiar American refrain. But it doesn't quite come off. Some readers will find it hard to accept Berlin's bold juxtaposition of forced and unforced migrations, and will insist that the experience of being bought and sold during the seventeenth, eighteenth and nineteenth centuries cannot be grouped with the voluntary journeys of the twentieth century. Berlin is alive to this objection, and he sensitively concedes that slavery was sui generis even as he urges us to imagine a common theme for black history.

The theme of migration throws up other difficulties. Since the late eighteenth century, when many of the founders proposed that black people should be relocated to Africa as a condition of their emancipation, there has been a considerable suspicion among black Americans about the racist uses to which migration and population transfer might be put. Oddly, Berlin has little to say about the colonization mania among white people in the North and the upper South during the antebellum period: during the six decades before the Civil War, most white people came to believe that the deportation of blacks was a prerequisite for abolition.

Then there's the problem of linking nonblack immigration with these black population movements. Berlin concedes that the age-old story of (white) immigrant success aligns poorly with the unspeakable journeys of the middle passage and the crowded flatboats and steamships that brought slaves to the Southern interior from the Atlantic states after 1800. (His suggestion that many white immigrants were, like black slaves, victims of international capitalism doesn't quite convince.) He also acknowledges, at various points, that the struggle of blacks and immigrants for economic and social progress was a zero-sum game. In the decades before the Civil War, white immigrants embraced a virulent antiblack racism as a badge of belonging. After World War I the opportunity for blacks to move north and establish a strong presence in the cities was supplied by the ugly xenophobia among white politicians that closed down further immigration from Europe and Asia. Perhaps historians can sketch common experiences here and suggest that blacks and nonwhite immigrants ought to recognize what they shared. But the history of competition and tension

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between blacks and other migrants complicates the effort to present their struggles in a single frame.

This returns us to the question of how American history should be realigned to incorporate the richness of black experience. Steven Hahn has serious doubts about the integrationist story. In recent years, Hahn has emerged as the pre-eminent historian of black politics in the apparently lost decades between the end of the Civil War and the stirrings of the modern civil rights movement. His book *A Nation Under Our Feet*, which was awarded the Pulitzer Prize in 2004, uncovered a vast history of black political involvement during the Jim Crow era. For a historian like Hahn, a focus on the supposedly inexorable logic of integration presents some obvious problems: if our benchmark for black experience is the degree to which African-Americans are accepted into the political fabric of the nation, the disenfranchisement of an entire race between Reconstruction and the 1960s constitutes a huge hole in black history.

Hahn wonders why we can't recognize the Civil War as a giant slave rebellion.

In *The Political Worlds of Slavery and Freedom*, Hahn explains that the decades after Reconstruction were far from a political vacuum for Southern blacks. Instead, black people worked to wring as much as they could from the promises of the Reconstruction years, then regrouped after the Confederate counterrevolution in 1877 and continued to organize. In the process, they embraced a number of tactics and aspirations that don't fit well with the integrationist story. They formed paramilitary groups in response to the resurgence of racial violence and founded breakaway communities outside the boundaries of white control. Some gave serious consideration to leaving the United States altogether. Militarization, separatism and pan-Africanism were all successful strategies for countering the denial of black citizenship within the restored United States. Each was profoundly political, and none gave succor to the prospect of racial integration.

To make his case, Hahn offers a number of arguments that will seem polemical when set against the integrationist narrative. For example, he rejects outright the standard story about the abolition of slavery. Many histories of the early Republic insist that the shining ideals of the founders contributed to the speedy defeat of slavery in the North. Emancipation statutes were on the books in every state north of Delaware by 1804, they argue, and the growing conflict with the South reflected a fundamental disagreement between Northerners and Southerners over the morality of slavery. For Hahn, this is a heartening but unconvincing story. He points out that those Northern emancipation statutes were very limited in their reach: in most states, freedom was restricted to the children of slaves, and only those who had reached their 20s. As a result, Northern slavery lingered much longer than most Americans realize; to the eve of the Civil War, in some states.

Worse, there was a broad consensus among Northerners that their states should not become a refuge for fugitive slaves. This principle was enshrined in Article IV of the Constitution; a series of laws between 1793 and 1850 confirmed the right of Southerners to reimpose slavery on black people north of the Mason-Dixon line when they could prove that a person had fled his charge. (Since white testimony was clearly privileged over black in Northern courts, the standard of proof was low.) The 25 percent to 50 percent of Northern blacks who had been born in the South felt especially vulnerable to "recapture" even if their freedom had been legally granted, but Hahn suggests that virtually every black person in America knew the idea of a free North to be illusory. The entire United States was a slave regime, even if the integrationist version of American history would prefer it to have been otherwise.

Hahn acknowledges the political power of the integrationist narrative. In the 1960s and '70s, American historians were finally able to foreground the stories of slavery and racism, writing in the fire (or the afterglow) of the civil rights movement. In presenting the struggle for black citizenship as a keystone of American history, they naturally focused on emancipation and citizenship rather than black separatism or political autonomy. If instead we approach black history on its own terms rather than accepting integration as its unifying theme, a number of intriguing possibilities come into view. Hahn suggests that the black communities in the North before the Civil War were constituted and protected by blacks rather than by local or federal government: they were, in effect, communities of fugitives rather than citizens, in which blacks recognized that they could rely only on themselves to sustain freedom. Historians are familiar with this phenomenon in the Caribbean and South America: the so-called maroons were escaped slaves who founded communities in the shadow of the plantations of Jamaica, Brazil and elsewhere. They sustained their independence with martial courage and a fierce sense of self-determination. Hahn makes the provocative suggestion that blacks in the antebellum North might also be considered maroons. Rather than seeing them as beneficiaries of the promises of 1776, we should recognize that Northern blacks made and defended their own freedoms despite the national malaise of slavery.

Hahn does something similar with the Civil War. In recent decades, historians have become more aware of the important roles played by Northern and Southern blacks during the conflict. Perhaps half a million slaves crossed the lines into Union territory during the war, and around 150,000 of them (alongside many Northern blacks) enlisted in the Union army. Lincoln was ambivalent about abolition in 1861 and 1862, and his views on the necessity of widespread emancipation were strengthened by the droves of black people fleeing slavery and by the thousands of blacks who volunteered for military service. So why do most Americans still believe that Lincoln freed the slaves? Why are we inclined to see the slaves as passive recipients of freedom—again, as beneficiaries rather than as instigators—when their actions played a crucial role in shaping the Emancipation Proclamation? Why can't we recognize the Civil War as a giant slave rebellion?

Part of the answer lies in the political uses to which history and memory were put by blacks and whites alike after the Civil War. White people in the North and the South agreed to view the war as a family melodrama rather than an epic unraveling of racial injustice. White Southerners indulged the belief that their slaves had been loyal even to the end; white Northerners saw no reason to disabuse them of this. Even in progressive black circles, the idea of slaves as rebels and revolutionaries had considerable drawbacks. Many black leaders during the Jim Crow period and the civil rights era emphasized that blacks had been responsible and law-abiding during the dreadful years of slavery, establishing themselves as citizens-in-waiting rather than dangerous radicals. The logic of black

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revolution seemed to lead away from the integrationist goals of the NAACP and toward pan-Africanism, black power and other strident forms of self-determination. Not surprisingly, these alternative understandings of black history were cast aside.

At the heart of Hahn's critique is an attempt to recover African-Americans as political actors: to insist that, under slavery and "freedom," in the North and South, black politics was everywhere. This politics has been obscured in popular history, and even in academic circles, because it sits so poorly with two cherished myths about American history: that a commitment to freedom was a strand in the nation's political DNA, and that black people have patiently pursued integration since 1776. Hahn wants us to be bolder in exploring the hidden corners of black history, to set aside the integrationist narrative in search of the totality of black experience.

Ira Berlin's suggestion that the history of migration should be expanded to include African-Americans certainly brings the black past into alignment with one of the "master narratives" of American history, though not without cost. While Hahn counsels renewed attention to pan-Africanism and the recurrent interest of black people in emigration schemes, Berlin says virtually nothing about Marcus Garvey and the other black proponents of migration beyond the boundaries of the United States. Berlin's book will be more palatable to liberal readers who imagine black history as a journey toward meaningful American citizenship. By expanding the definition of this journey to include recent black arrivals with no ancestral connection to the US slave trade, Berlin opens up the traditional liberal story: black history emerges as more international and fluid in his telling, and his focus on how people adapted to the rhythms of movement and rootedness allows him to account for black agency in a way that would gratify Hahn. Berlin's black migrants are not simply carried on a tide beyond their control, even during the years of slavery. But this story complements the liberal narrative and seems considerably less radical than Hahn's proposal. Berlin sets out to broaden the conventional frame of black history—which places the transition from slavery to freedom at the heart of everything—but integration and a hard-won Americanness still figure prominently in his account.

It's tempting to heed Hahn's sweeping call for a new paradigm of black history, and to take up the many questions that would

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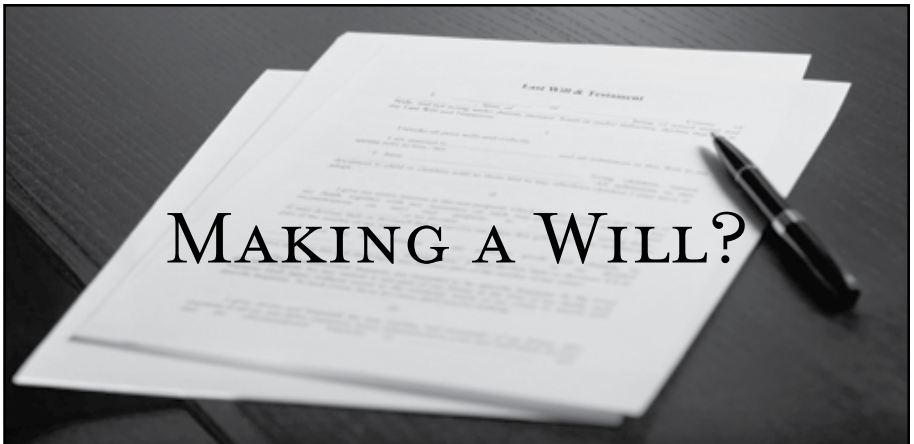

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follow the uncoupling of African-American experience from the integrationist story. We might also consider why so many white people in the North eventually recognized the necessity of abolition without accepting the logic of racial equality. The emergence of scientific racism is only part of this story. Many stalwarts of the antislavery struggle—including Abraham Lincoln and Harriet Beecher Stowe—passionately believed that blacks were entitled to the promises of the Declaration of Independence, even as they suggested that the long-term future of African-Americans lay in colonies or nations beyond the borders of the United States.

The major obstacle to realizing Hahn's ambitious agenda is political rather than intellectual. Many of the operating assumptions of American history rest on the foundation of the integrationist story. To question it requires a fundamental reassessment of the most sanctified episodes in the American past, like the founding and the Civil War, and a willingness to acknowledge that neither freedom nor inclusion was an inevitability of American life. A more radical approach might also complicate the efforts of those black politicians and leaders who have deployed the integrationist story for progressive ends: leaders who, like Frederick Douglass and Barack Obama, determined that the benefits of embedding black experience in the unfolding story of American freedom offer more tangible rewards than a full accounting of America's past. From popular histories to the rhetoric of candidates and leaders, a revolution in our understanding of black history may be some time in coming. After all, in what seems more like a campaign pledge than an irony, the first black president has already urged us not to "lose sight of what we have in common." ■

In With Both Feet

by MICHAEL O'DONNELL

Louis D. Brandeis
A Life.
By Melvin Urofsky.
Pantheon. 955 pp. $40.

They called it a "Brandeis brief." When the great attorney Louis Brandeis wrote a legal brief in a constitutional case, it was short on legal theory and packed with so many facts that it required a sturdy binding and a solid arm for hefting. In 1908 the brief he submitted to the Supreme Court in *Muller v. Oregon*—he successfully defended that state's ten-hour workday for women laborers against an industry attack—became an instant legend, running to 113 pages and reading like an earnest encyclopedic entry on the ills of modern factory life. Such a document necessarily relied on interdisciplinary research, which was one of the Brandeis brief's main innovations. Economic data, labor reports, foreign sources, academic studies—the brief summoned an army of facts. This was highly unorthodox. Lawyers at the time were expected to make an argument, cite the pertinent cases and statutes and wrap things up.

When Brandeis joined the Supreme Court in 1916, at 59, he fashioned his opinions in the same exhaustive manner. He was officially the first justice to cite a law review article in an opinion, and unofficially the first to cite *Bakers Weekly* (in a case involving a law that standardized weights for loaves of bread). He once even cited *The Nation* in a dissent, if only for its convenient reproduction of one of Thomas Jefferson's speeches. One Thanksgiving his law clerk (and a future secretary of state) Dean Acheson was over for dinner, and Brandeis sounded off about the French, who were trying to renegotiate loans entered into during World War I. Acheson considered arguing a little with his boss by pointing out France's contributions to Western civilization but later admitted, "I knew he would floor me by quoting their export statistics for the same years, so I gave it up."

Like Dickens's Gradgrind, Brandeis wanted facts. He had a bathtub filled with clippings and articles—a reservoir of data waiting to be tapped. During his thirty-nine years as an attorney in private practice in Boston, he devised an arduous habit: upon taking on a new client, he holed up and learned everything he could about its business, and more important, its opponent's. A masterful cross-examiner, Brandeis was able on more than one occasion to trip up a hostile witness, wielding a better understanding of the opposing firm's affairs than its own president did.

As a constitutional matter a Brandeis brief—or opinion, or dissent—makes a certain amount of sense. After all, one of the ingenious hallmarks of the Constitution is its brevity: the text yields few ready answers and is frequently perceived by jurists as an invitation to make talismanic divinations. "Congress shall make no law respecting an establishment of religion"; "unreasonable searches and seizures" shall be prohibited; states shall deny no person "the equal protection of the laws." What do these vague, Olympian commandments from the First, Fourth and Fourteenth Amendments mean, exactly? Is it an "establishment" of religion to display a cross on public property? To allow an invocation before a high school basketball game? To print "In God We Trust" on the currency? To a certain extent these types of questions can be answered by studying the bedrock and sediment of the common law: look for what courts have done in similar cases and analogize from that. But in a novel case facts can be more helpful than precedents, as Brandeis demonstrated many times over.

AP
Justice Louis Brandeis (left) and Chief Justice William H. Taft leaving the White House, March 13, 1929

He was also a lifelong champion of the "living" Constitution—the view that if the Constitution is to endure, it must evolve to meet society's changing needs. Today this common-sense premise is hotly disputed by judges who seem to want to keep the gallows busy and the women in the kitchen. It was

Michael O'Donnell is a lawyer in Chicago whose writing on legal affairs has appeared in Bookforum, Washington Monthly *and the* Los Angeles Times.

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less controversial in Brandeis's time, although it didn't always carry the day. In *Olmstead v. United States* (1928), for instance, the Court held in a formalistic opinion that the police's use of a new evidence-gathering technology called wiretapping was not a search or seizure under the Fourth Amendment, since no doors were kicked in or papers removed. In his dissent, Brandeis uncharacteristically put aside facts to summon the kind of stirring eloquence that his colleague Oliver Wendell Holmes Jr. regularly brought to the bench:

> The makers of our Constitution… knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment.

Melvin Urofsky, an academic historian, has written an extraordinary biography of Brandeis that devotes equal attention to his careers as attorney, reformer and justice. Topping out at nearly 1,000 heavily annotated pages, it is surely one of the most comprehensive legal biographies published in recent years. But Urofsky paces the narrative crisply, and his judgments are as briskly dispensed as they are trustworthy, often after a quick and skilled survey of the voluminous Brandeis scholarship. For example, here is Urofsky on whether Brandeis encouraged Franklin Roosevelt to nominate William ("Wild Bill") Douglas to be his successor on the Court, as Justice Douglas later claimed: "No one has ever found evidence to back this up, and Douglas's memoirs are full of exaggerations, misrepresentations, and out-and-out falsehoods." Urofsky's learned, confident and persuasive book is now the standard life of his subject. In authority and heft, it is equal to a Brandeis brief.

Before he joined the Court, Brandeis operated as a sort of roving moralist, earning the enmity of Boston's financial community and the nickname "the people's lawyer." His reform causes—stopping a plan to run a trolley train through Boston Common; trust-busting among the Morgan concerns; refereeing major labor disputes like the 1910 New York City garment workers' strike—allied him with progressive agitators like Wisconsin senator and presidential candidate Robert La Follette, whose invitation in 1924 to join the ticket Brandeis discreetly declined. In private practice, Brandeis often angled himself into the singular position of being "counsel to the situation" rather than advocate for one side or the other, working to find a solution that he deemed best for everyone. Urofsky observes that this arrangement may have been unethical at the time (it certainly would be today); and even if it reflected widespread trust in Brandeis's judgment, it caused all sorts of problems and conflicts of interest.

The most important reform effort of Brandeis's career concerned an issue that surfaced during last year's debate over healthcare. At the beginning of the twentieth century, life insurance policies provided a financial safety net analogous to modern health insurance. But "term insurance" policies for the laboring class were canceled without refund if the policyholder missed a single payment, on the dubious rationale that the worker had chosen to let the policy lapse. Brandeis devised an alternative called "savings bank life insurance," which offered policies through trusted

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community banks rather than insurance conglomerates. His efforts on this reform reveal a lifelong faith in markets, even while fighting for progressive change. Savings bank life insurance was not universal free insurance for all but an attempt to inject competition back into a complacent, monopolistic industry. This entrepreneurial bent also figured in Brandeis's push to help Woodrow Wilson tighten anti-trust laws early in Wilson's presidency. Monopoly was a type of cheating that offended Brandeis's sense of fair play. Urofsky explains that Brandeis's and Wilson's "progressivism lay in their desire to favor popular democracy against wealthy elites, but they wanted to do so with minimal governmental influence and regulation.... Both feared big government as much as big business."

Big government and big business: Brandeis frequently railed against "the curse of bigness." He represented labor unions, including the United Mine Workers, but also distrusted large ones, siding with management against the Boston Typographical Union. He cheekily advised a former clerk to reject a position at Harvard, telling him "anybody can be a good Dean of the Harvard Law School. Why not take some smaller school and do something with it?" He took pride in the Supreme Court's lean staffing, and opposed the Court's move from the Capitol to fancier digs in 1935. In their own way, these hedges all sought to keep things small, local and responsive to the people.

Urofsky contends that a similar small-d democratic ethos informed Brandeis's ardent Zionism. The first Jewish Supreme Court justice, Brandeis certainly suffered his share of anti-Semitism. To take the most appalling example, there is no official Supreme Court photograph for 1924 because Justice James McReynolds, a blazing bigot, refused to sit next to Brandeis as seniority dictated during that term. But Urofsky suggests, plausibly if creatively, that it was not anti-Semitism, religious fervor or cultural identity that led Brandeis to Zionism. Like the savings banks, Israel represented a chance to start over, applying American values and democratic principles on a smaller scale. If Brandeis was a capitalist, he was also a utopian, always on the lookout for the next small thing.

Despite Brandeis's many reforms, his chief legacy is his work on the Court. He essentially invented the law of privacy ("the right to be let alone"), broadened the First Amendment's protection of unpopular political speech, dissented vigorously when conservatives struck down New Deal legislation and strengthened the Court as an institution by joining his conservative brethren in opposing Roosevelt's cynical Court-packing plan. For these achievements Brandeis is one of the four or five great jurists of the twentieth century. He happened to serve alongside two others, Holmes and Benjamin Cardozo, and one of the pleasures of Urofsky's book is its gentle and generous chronicle of Brandeis and Holmes's improbable friendship.

Holmes, the elder of the two, was for thirty years a reassuring liberal presence on a Court increasingly bent on inventing rights for the business community. With each annual Court photograph, his impressive mustaches seemed to grow a little broader, like two outstretched arms spread wide in the embrace of reason. Whereas Brandeis emphasized facts and championed social reform, the utilitarian and amoral Holmes dealt in abstractions. He didn't even read the newspapers. If Holmes was the more principled voice for judicial restraint in their many joint dissents—Brandeis's opinions occasionally betray his sympathy for the progressive laws his conservative colleagues were attacking—that is because Holmes had no opinion on the questions of the day, except as a philosophical matter. (Louis Menand contends in *The Metaphysical Club* that Holmes's experiences as a Union soldier during the Civil War destroyed his "belief in beliefs.") Nevertheless, the friendship was a warm one. The two walked home from Court together many evenings, sometimes arm in arm, and when Brandeis circulated opinions for his colleagues' votes, Holmes's "returns" were chummy and encouraging. "A sockdolager," or "I am in it with both feet," he might write. When the Senate voted to confirm Brandeis's nomination to the Court after a difficult fight spearheaded by industry bigwigs he had humbled, he received a telegram from Holmes that read simply, "Welcome."

By temperament, Brandeis was passionate but mild-mannered, idealistic but pragmatic, frugal but not austere. Like many crusaders, he was mostly humorless and occasionally an insufferable moralist. When his law clerks tried to arrange a reunion to celebrate his twentieth year on the bench, Mrs. Brandeis squelched the idea, saying, presumably at her husband's request, that he would much prefer it if each of them "would sit down and write the Justice a letter telling him what we had been doing for the advancement of mankind." Brandeis once complained that he could have turned more decisions his way had he horse-traded like the other justices, but "I would have had to sin against my light, and I would have hated myself." Urofsky, who clearly admires his subject but knows how to call a foul, sees "a certain sanctimony" in this protestation from a savvy political operator who advised presidents and cabinet secretaries. Then again, perhaps Brandeis didn't need to play politics. Even if it took a generation or two, most of his dissents were eventually adopted by the full Court as the law of the land. ■

Icons and Zombies

by STUART KLAWANS

Times Square was just lighting up when I stepped out of the screening of *Breathless*. Under a black-and-white movie sky—a mottled screen of rain clouds, backlit by the last dim afternoon sun—billboards and video displays had sparked up their colors for the night, cars' headlights were starting to flare down the avenue, and the window glow of delis and storefronts had splashed onto the sidewalks. People were wading and kicking through the light on this still-damp evening as they jockeyed past one another at the intersections, with me among them hurrying on my way past one, two, three newsstands and down into the Fiftieth Street subway station, where a trumpeter on the platform was playing "Nature Boy." He switched to the theme from *The Godfather* as the train came in, and this made perfect sense. The screening of *Breathless* had ended—a preview of the restored print, with improved subtitles, that has been prepared to commemorate the film's fiftieth anniversary—but I felt I was still in a movie, even while chasing around outside.

To me, and I suspect to most cinephiles, this is the rush that makes moviegoing addictive: the sensation that the film's world was so full that it has spilled into the sights and sounds beyond the theater's doors. You may judge the power of the drug by the fact that it cannot be copped very often. From *Breathless*, as everyone surely knows by now, you get a shot of the pure stuff, especially now that the image has been cleaned up and is available again on a real screen.

Once more you can look down on the Champs-Elysées from the vantage point of a rooftop or upper-story window and see

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the moment when the streetlamps blink on; and this sudden but soft change in the view's infinitely nuanced grays (which seem so peaceful at this remove) will quiet your heart a little and give you a sensation of being in the midst of something elegant, even if your next twilight experience takes place on Seventh Avenue. The cinematographer for *Breathless*, Raoul Coutard, contributed to this effect by serving as a consultant for the restoration, which in itself might not guarantee a perfect match between this print and the original (think of the notorious differences between Ansel Adams's early and late prints) but does ensure that an unmistakable classicism shines through the radicalism of these pictures. When Jean Seberg appears in close-up, you see the freckles on her nose. When there's a shot of Jean-Paul Belmondo's hand holding the two coins that are his only constant assets, you see the dirt worked into the fingers. Such evidence of the randomness and grubbiness of ordinary life was still routinely scrubbed out of movies in the era when *Breathless* came out; but here, it's present throughout, and in the coolest, chicest form it will ever take.

Which is to say that *Breathless* (as everyone also knows by now) not only lets you live vicariously through the movies but also winks at you knowingly for wanting to. "Bogie!" exclaims an awed Belmondo when he spots some photographs of the actor displayed outside a movie theater, then pauses to venerate his idol by aping him. Perhaps *Breathless* hints at a slight condescension toward this commonplace mode of fantasy, which helps speed Belmondo's character (a self-described "jerk" in the current subtitles) toward his unfortunate end. The cinematic sophisticates from whose circle *Breathless* emerged wanted an audience that would go beyond identifying with movie stars—an audience that would learn to see itself in relation to genres, production studios, national cinemas and ultimately the worldviews of certain geniuses behind the camera.

This project proved to be open to some degree of self-criticism. *Breathless*, which bears a Parisian in-joke dedication to the Hollywood B-movie factory Monogram Pictures, is literally about the risks a Frenchman faces when he misappropriates American vehicles (that is, the various Detroit cars that Belmondo steals). And when this particular Frenchman enters into an excitingly troubled relationship with Seberg, an American star cast to represent American innocence abroad? He calls their lovemaking "Franco-American rapprochement"—this, in a film that takes time out to document, and mock, a state visit from Eisenhower to de Gaulle.

I confess I had forgotten some details of the film's ambivalence toward America as a world power, an ambivalence that lends depth and substance to the movie's more parochial fascination with the cruder strains of American filmmaking. No doubt these aspects of *Breathless* are crucial to its meanings; but they're also the aspects of the movie that tether it to 1960. What interested me most during my latest viewing was the film's utter contemporaneity. I have grown middle-aged watching *Breathless*; Seberg and Belmondo, who looked so alluringly mature to me when I first saw the film, now reveal themselves, touchingly, to have been mere kids. We've all wrinkled up or passed on, the stars included; and yet *Breathless* itself hasn't aged by one second. How is it possible that on its fiftieth anniversary this film remains as fresh as on the day it came out of the lab?

Maybe the answer lies with Seberg: in the way she can't ignore the camera but is always posing for it, with a self-consciousness that seems perfect for the uncertain, half-formed character she's playing. It would be difficult to ascribe *Breathless* to a feminist sensibility—impossible, in fact. And yet the heart of the film is its entirely realistic portrait of a young woman who lives on the cheap overseas, working at odd jobs, nursing vague ambitions and not quite speaking the language; a young woman stuck in the credible dilemma of being pregnant by an amusing scoundrel she hardly knows, couldn't possibly marry but doesn't want to give up. He's never self-conscious (even when Belmondo speaks straight to the camera) because he's a stand-in not only for the movie-besotted common man but also for the director: Mr. Jump-Cut himself, generator of physical excitement and outlaw aestheticism. But however huge his personality, Belmondo has a character to play who seems small compared with Seberg's. The only substance this man has, his only redeeming quality, is his romantic devotion to her—a trait that cuts against all allegorical tendencies, to fix the incomparably playful cinematic vision of *Breathless* on an unaging human subject.

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Jean-Paul Belmondo and Jean Seberg in *Breathless*

The fiftieth-anniversary restoration of *Breathless* is being released in the United States by Rialto Pictures. Because this new print, like the original, has no credits, I will note that the story was made up by François Truffaut. The technical adviser was Claude Chabrol. The musical score—which bears the same relationship to jazz as *Breathless* does to Hollywood noir—was composed by Martial Solal. Producer Georges de Beauregard put up the money. The writer-director was Jean-Luc Godard. I predict we will hear more of him.

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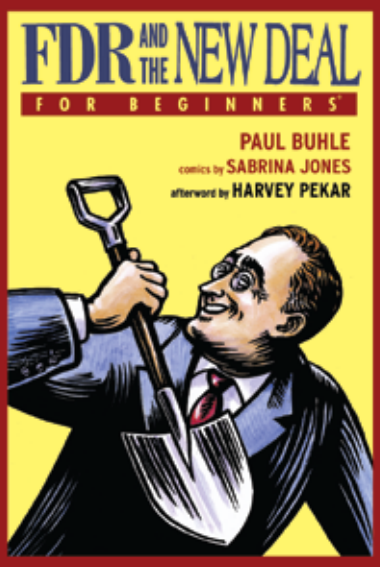

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Let us now praise famous zombies. In the beginning, there weren't any, since the ravenous corpses in George A. Romero's epoch-making *Night of the Living Dead* (or, if you prefer, *Night When the Dead Brought the War Back Home to a Racially Torn America*) were an undifferentiated lot, utterly lacking in emotion, social organization or habits, let alone individuality. But this situation began to change with the sequel, *Shopping Mall of the Dead*, in which the zombies turned out to retain a primitive set of consumerist reflexes. By the time Romero got to *Luxury Mixed-Use Development of the Dead*, one of the zombies (played by Eugene Clark) had developed enough foresight and leadership ability that he could be identified by name: Big Daddy. And now, in *Feuding Stage-Irish Folkways of the Dead* (official title: *Survival of the Dead*), Romero has given us his first zombie romantic lead in the lovely O'Flynn lass (Kathleen Munroe), who remains a dashing equestrienne even after her eyes turn a uniform milky blue.

In short, Romero's zombies have gradually become more and more like the living; and some of the living in *Survival of the Dead* are now almost indistinguishable from zombies in their mindlessness.

Ostensibly set on a lush, wooded island off the coast of Delaware but really located in Romero's memories of old westerns, *Survival of the Dead* concerns the unreasoning conflict between two clan leaders: crusty, white-maned Patrick O'Flynn (Kenneth Welsh), with his talent for deceptive blarney; and implacable, boulder-headed Seamus Muldoon (Richard Fitzpatrick), who dresses in the traditional black hat and duster. A mere infestation of the walking dead cannot distract these two men from their mutual hatred—although it does provide them with yet another occasion for enmity, since Muldoon, a godly man, believes in keeping the departed close at hand (even if they might eat him), whereas O'Flynn wants to dispatch them all without delay (no matter how many of the living he might kill as collateral damage). Of course, Romero's fans know that O'Flynn is right. All zombies must be destroyed, and the nonchalance with which you may shoot, burn, fry or blow them up is a cause for amusement, not regret. But the bias toward O'Flynn with which *Survival of the Dead* is structured persists only for so long. By the end of the movie, perhaps as grim a conclusion as Romero has yet imagined, it's clear that both of the patriarchs will keep shuffling forever into conflict, driven not by principle or reason but by mere autonomic impulse, as if they too were zombies—or political bloggers from opposite camps.

If this reading is correct, and *Survival of the Dead* is indeed a movie about the fruitless bitterness between conservatives and liberals, then I object that the two sides in fact are not at all equal. I declare my allegiance to the O'Flynns. That said, I also note the film's pleasures. It may not be first-rate Romero, but *Survival of the Dead* is the least claustrophobic and most picturesque of his zombie movies. There's infectious humor in its deployment of purposely absurd movie conventions; there's pathos and intensity (perhaps more than at any time since the first film in the series) when living characters have to do in their dead friends, wives or children; and there's old-fashioned directorial mastery in at least two of the big set pieces.

All in all, a welcome return to form for Romero, after the previous and much-regretted *Social Media of the Dead*.

There came a moment during *Robin Hood*—many moments, in fact—when Russell Crowe or someone like him bellowed his way across the screen in stop-and-start motion, amid blurs of unidentifiable objects and streaks of pure color, and I wondered if Ridley Scott had saved money by patching in footage from *Gladiator*. How could you tell? If Crowe's armor were ancient rather than medieval in design, then I suppose the trick would be exposed. But good luck trying to make out details of costume, given the way the camera was apparently kicked across the set, and the resulting images then spliced together by a factory of hiccuping monkeys.

A purely commercial cinema may practice such economies. Maybe Crowe and Cate Blanchett even had clauses in their contracts—unexercised in the event—that said they would be paid extra if Scott ever required them to act.

It's foolish of me, I know, to complain that Scott now gives the public no more than it asks for. The audience that turns out on the weekend for a blockbuster (any blockbuster will do) is apparently satisfied to receive signs of excitement in place of excitement itself, a performance of stardom in lieu of a star performance. And from the director of *Alien*, *Blade Runner*, *Thelma and Louise*? What seems like fifteen minutes of footage, surrounded by two hours of second-unit work.

The ticket buyers might be content with this stuff; but I can't be content for them when I see the new-model Robin Hood going into his climactic fight armed not with a sword and not with a longbow but with a battle-ax. It's what mainstream cinema has become: a heavy object made to crash onto your head. ■

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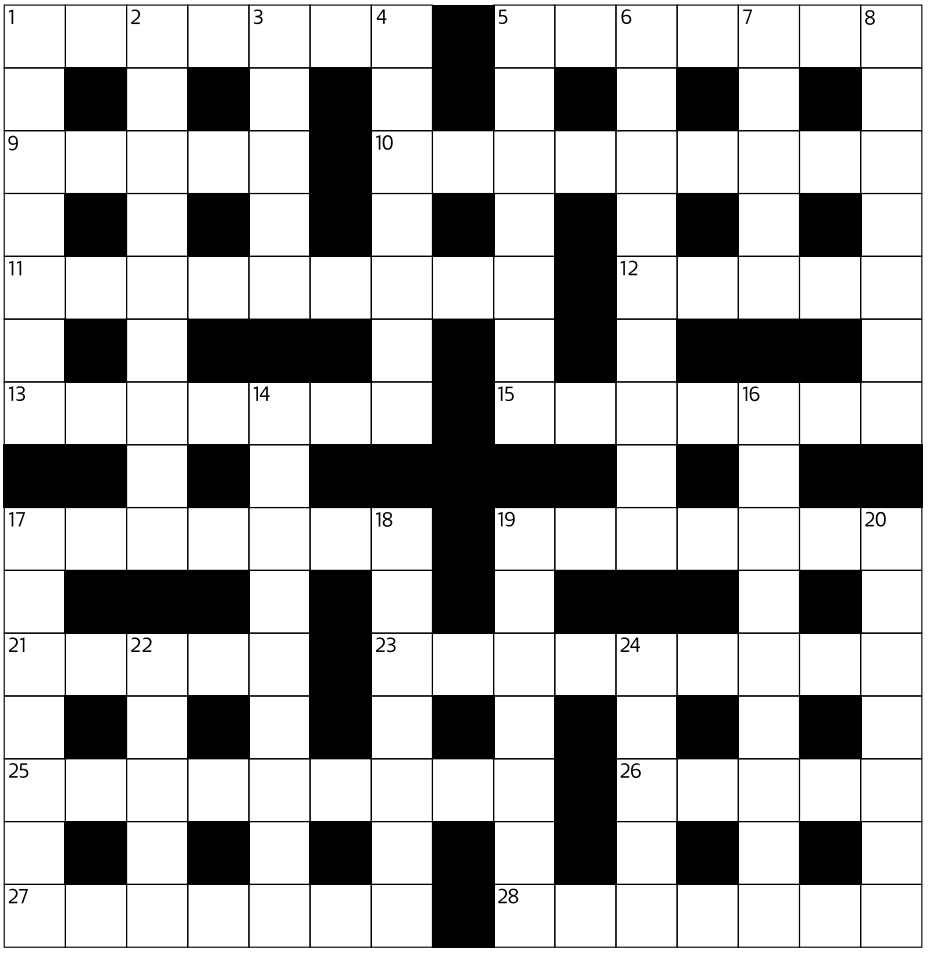

ACROSS

1 and **5** In Tel Aviv, I'll need an excuse for coexistence. (4,3,3,4)

9 Packaged candy, perhaps, in Denver and San Francisco? (5)

10 Cuts the shoestring cost? (9)

11 Date stubs that no gourmet should be without. (5,4)

12 On board, working with nails. (5)

13 It might indicate sloppiness, unless the basket is picked up after it. (7)

15 Scored, perhaps, after a fault. (7)

17 Eat too much of ginseng or gelatin. (7)

19 Tires, or just the spokes. (7)

21 The Hugh who started Cape Town? (5)

23 Fruit? A dime change is about enough to get it, but it could be charged… (9)

25 …but it is cents that makes up the proper change for such a knowledgeable type. (9)

26 See 14 down

27 Two ways of explaining a bridge defeat in place. (3,4)

28 Folds one's tents, obviously. (7)

DOWN

1 and **18** down Does it imply control of the press? (One might hope for it to be rare.) (7,7)

2 and **22** Not a going-away period—though it might help put things in proper perspective. (9,5)

3 Is, with drink around, responsible for a division in the house of worship. (5)

4 What they sometimes have to do to the buggy. (7)

5 Liberty-head, with a troop of scouts—reputedly causing some trouble to the Egyptians once. (7)

6 It could be sunk deep-rooted, in a way, if there's no easy beginning. (9)

7 Fiber tiles might be made from it. (5)

8 Made a tentative effort. (7)

14 and **26** across Ripped to pieces in the explosion? (You might, if things are!) (5,4,5)

16 You might find it at the bottom of the chest. (9)

17 Puts things into type size, upper or lower, for example. (7)

18 See 1 down

19 Reckoned to be put in the tall grass. (7)

20 They sometimes give people a pain. (7)

22 See 2 down

24 First and last letters, etc., could make one conquered some centuries ago. (5)

This puzzle originally appeared in the June 14, 1975, issue.

SOLUTION TO PUZZLE NO. 1588

W	I	T	H	O	U	T		W	A	R	N	I	N	G
I		E		F		R		A		O		G		A
L	U	N	E	T	T	E		S	P	O	O	N	E	R
L		S		E		F		H		S		E		A
I	X	I	O	N		O	U	T		T	H	O	N	G
A		O				I		U				U		E
M	I	N	D	F	U	L		B	L	O	U	S	E	S
				O						F				
D	E	C	O	R	U	M		O	F	F	H	A	N	D
E		H				A		P				R		E
E	X	A	C	T		T	H	E		B	A	C	O	N
P		N		A		C		N		L		A		S
E	N	G	L	I	S	H		S	P	O	N	D	E	E
N		E		S		E		E		O		I		L
D	E	S	I	G	N	S		A	N	D	M	A	R	Y

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